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OFFICE OF PERSONNEL MANAGEMENT

5 CFR Parts 870, 875, 890, and 894

RIN 3206–AN99

Designation of Certain Services as Emergency Services Under the Antideficiency Act; Opportunities To Enroll and Change Enrollment in the FEHB Program During a Lapse in Appropriations; Continuation of Certain Insurance Benefits During a Lapse in Appropriations

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: In this final rule, the Office of Personnel Management (OPM) is finalizing provisions to ensure the continuation of certain insurance benefits and services that could be impacted by a lapse in appropriations. First, this final rule implements section 1110 of the National Defense Authorization Act for Fiscal Year 2020 (FY20 NDAA), that designated certain Federal Employees Health Benefits (FEHB) Program and Federal Employees' Group Life Insurance (FEGLI) services as emergency services under the Antideficiency Act. Second, this rule also implements section 1110(c)(2) of FY20 NDAA that deems employees furloughed as a result of a lapse in appropriations to be in pay status, for purposes of enrolling or changing enrollment in the FEHB Program. Third, this final rule also ensures, pursuant to section 1111 of the FY20 NDAA, continuation of coverage under the Federal Employees Dental and Vision Insurance Program (FEDVIP) and the Federal Long Term Care Insurance Program (FLTCIP) for enrollees who are furloughed or excepted from furlough and working without pay due to a lapse in appropriations, and provides that coverage may not be cancelled as a result of nonpayment of premiums or other periodic charges due to such a lapse. The rule also clarifies that upon the end of a lapse in appropriations, FEDVIP and FLTCIP premiums will be paid from back pay or may be paid back from a source other than backpay for FLTCIP enrollees who elected to make payments directly to the Carrier. This final rule adopts the proposed rule as published.

DATES: This rule is effective on April 2, 2021.

FOR FURTHER INFORMATION CONTACT: Julia Elam, Program Analyst, at (202) 606–2128 or Padma Shah, Senior Policy Analyst, at (202) 606–2128.

SUPPLEMENTARY INFORMATION: On July 20, 2020, OPM published proposed regulations (85 FR 43743) to do the following during a furlough as a result of lapse of appropriations: designate FEHB and FEGLI services as emergency service under the Antideficiency Act; deem furloughed employees and employees excepted from furlough and working without pay as a result of a lapse in appropriations to be in a pay status for the purposes of enrolling or changing FEHB enrollment; ensure the continuation of FEDVIP and FLTCIP coverage. The rule amends 5 CFR parts 870, 875, 890, and 894. OPM provided 30 days for the public to comment on the proposed rule. The comment period closed on August 19, 2020. OPM received 7 public comments and one informal comment.

FEGLI is administered by OPM in accordance with Chapter 87 of Title 5 of the U.S. Code and implementing regulations (title 5, part 87, and title 48, chapter 21 of the Code of Federal Regulations). The FEHB Program is administered by OPM in accordance with Title 5 Chapter 89, United States Code and implementing regulations (title 5, parts 890, 892 and title 48, chapter 16). FEDVIP was created as a result of the enactment of the Federal Employee Dental and Vision Benefits Enhancement Act of 2004, Public Law 108–496, and certain TRICARE-eligible individuals who are authorized under section 715 of the National Defense Authorization Act of Fiscal Year 2017, Public Law 114–328, became eligible for FEDVIP. FLTCIP was created as a result of the enactment of the Long Term Care Security Act of 2000, Public Law 106–265.

Response to Comments

OPM received comments from three professional associations, one FEHB Carrier, and one carrier organization, as well as four comments that were outside the scope of this rule. In addition, we received feedback from a benefits administrator. All the commenters were supportive of the regulation's goal to continue FEDVIP and FLTCIP benefits during a lapse in appropriations and to designate certain FEGLI and FEHB services as emergency services. There was agreement that designating these as emergency services ensures the safety of Federal employees and provides a sense of stability while employees are furloughed. The commenters also supported that the rule ensures that furloughed employees and employees working without pay can continue to enroll and make enrollment changes in the FEHB Program.

The professional organizations commented that lapses in appropriations cause significant financial uncertainty and strain on furloughed employees. The commenters stated the proposed rule would work to provide employees with security and peace of mind during the economic uncertainty surrounding a lapse in appropriations. They also stated that the regulation ensures furloughed employees' health needs are met, making them better equipped to return to work when appropriations are restored. OPM agrees that the regulation can have a positive impact on Federal employees who may be impacted by a lapse in appropriations.

The FEHB Carrier also stated that maintaining health insurance benefits are a matter of human safety. The commenter also agreed with the rule ensuring that furloughed employees and employees working without pay as a result of a lapse in appropriations, can continue to enroll and update their enrollments in health insurance coverage during lapses in appropriations. The commenter stated that the rule will not have a negative impact on its FEHB line of business, since during the 2018–2019 lapse in appropriations, it continued to process enrollments and enrollment changes. The commenter also supported the continuation of vision and dental benefits for employees during lapses in appropriations.

The carrier organization indicated that the proposed rule was consistent with the FY20 NDAA, Public Law 116–92, and had been drafted in a manner that would improve program administration. OPM agrees that the regulation can improve program administration and believes it can assist in processing and continuing benefits during a lapse in appropriations.

The benefits administrator provided feedback about back pay payments for missed FLTCIP and FEDVIP premiums and expressed concern about double deductions for FEDVIP premiums since, prior to this rule, the practice was for the Program Administrator to collect two missed premium payments each month until the previously unpaid premiums are caught up when employees returned to work and received pay upon the end of a lapse in appropriations. The commenter also stated that currently not all payroll providers can process past premiums for FEDVIP and FLTCIP from back pay when a lapse in appropriations ends. The commenter suggested that the rule allow unpaid FLTCIP premiums during a lapse in appropriations be paid by adjusting future deductions as was done during the most recent extended government shutdown. OPM declines to revise the regulation to allow for adjusting future deductions to make payments for premiums. Section 1111 of the FY20 NDAA directs that FLTCIP premiums be paid from back pay or may be paid back from a source other than backpay for FLTCIP enrollees who elected to make payments directly to the Carrier. Therefore, we are finalizing the regulatory text in 5 CFR 875.302(c)(1) as originally proposed, stating that if premium payments are made by Federal payroll or annuity deduction, or uniformed services retirement pay deduction, premiums will be paid to the Carrier from back pay made available as soon as practicable upon the end of such a lapse. OPM encourages payroll providers to make necessary systems change so that back pay can be used as payments for premiums missed during a lapse in appropriations.

The benefits administrator also had concerns about FEDVIP premiums being paid to the Carrier from the enrollee's back pay since only one shared service center can process back payments. It suggested that the regulatory text also include that premiums can be paid from adjustments made to future deductions. It also commented that during the last shutdown the decision to pay back pay was not made until the end of the shutdown and asked how it will know whether to direct bill enrollees.

OPM declines to adjust the regulatory text based on these comments. Section 1111 of the FY20 NDAA directs that FEDVIP premiums be paid from back pay. Therefore, we are finalizing the regulatory text in 5 CFR 894.405(c) and 5 CFR 894.406(c) as originally proposed, stating that premiums will be paid to the Carrier from back pay made available as soon as practicable upon the end of such a lapse. We would like to clarify that enrollees who have been furloughed or excepted from furlough and working without pay will not be billed for services during a lapse in appropriations and coverage should continue. As explained in the proposed rule, assuming Congress appropriates back pay as authorized by 31 U.S.C. 1341(c)(2), FEDVIP premiums will be paid to the Carrier from the enrollee's back pay made available as soon as practicable upon the end of such a lapse. However, we would like to provide a technical correction to the preamble of the proposed rule. If Congress does not appropriate back pay, the Program Administrator may collect missed premiums by adjusting future deductions.

OPM is issuing this final rule with no changes.

Expected Impact of the Final Rule

OPM expects that the regulatory changes which designate certain FEHB Program and FEGLI services for purposes of section 1342 of Title 31, United States Code, as services for emergencies involving the safety of human life or the protection of property Antideficiency Act, will have a positive effect on enrollees impacted by a lapse in appropriations. The updated FEHB regulations will allow Government agencies to continue to employ Federal officers and employees to perform services such as enrolling an individual in an FEHB plan or changing the enrollment of an individual enrolled in FEHB during a lapse in appropriations. The amended FEGLI regulations will assist FEGLI enrollees since it allows agencies to employ officers or employees to perform FEGLI services during a lapse in appropriations. These services include activities related to enrollment, changing enrollment, temporary extension of coverage and conversion, eligibility, certification of coverage, and matters relating to reemployed annuitants and survivor annuitants.

OPM anticipates that the additional FEHB regulatory changes will assist employees who are furloughed or excepted from furlough who may want to enroll, or will assist enrollees who may experience a qualifying life event and may want to make enrollment changes. Under the rule as finalized, an employee, who is furloughed or excepted from furlough and working without pay as a result of a lapse in appropriations, is deemed to be in pay status, during the lapse, for purposes of enrolling and change enrollment in the FEHB Program. Prior to this regulation, such an employee might experience challenges with enrollment or enrollment changes since generally, an employee needs to be in pay status in order to enroll or change enrollment in the FEHB Program. In addition, prior to this rule FEHB services were not designated as emergency services and employees or officers performing those services might have not been allowed to perform those services during a lapse in appropriations.

OPM expects these regulation changes for the continuation of FLTCIP and FEDVIP during a lapse in appropriations will ensure enrollees who are furloughed or excepted from furlough and working without pay to continue FLTCIP and FEDVIP coverage without having their coverage cancelled. Once the lapse in appropriations has ended, FLTCIP premiums will be paid from back pay or may be paid back from a source other than backpay (*i.e.* automatic bank withdrawal or direct bill) for FLTCIP enrollees who elected to make payments directly to the Carrier. FEDVIP premiums will be paid back from back pay once the lapse in appropriations has ended. OPM anticipates these changes to the regulation will ensure Carriers receive payments for missed premiums that occurred during a lapse in appropriations.

Regulatory Impact Analysis

OPM has examined the impact of this rulemaking as required by Executive Order 12866 and Executive Order 13563, which directs 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). A regulatory impact analysis must be prepared for major rules with economically significant effects of $100 million or more in any one year. This rulemaking is not a significant regulatory action under Executive Order 12866.

Regulatory Flexibility Act

I certify that this regulation will not have a significant economic impact on a substantial number of small entities.

Federalism

We have examined this rule in accordance with Executive Order 13132, Federalism, and have determined that this rule will not have any negative impact on the rights, roles and responsibilities of State, local, or tribal governments.

Civil Justice Reform

This regulation meets the applicable standard set forth in Executive Order 12988.

Unfunded Mandates Reform Act of 1995

This rule will not result in the expenditure by State, local or tribal governments of more than $100 million annually. Thus, no written assessment of unfunded mandates is required.

Congressional Review Act

The Congressional Review Act (5 U.S.C. 801 *et seq.*) requires rules (as defined in 5 U.S.C. 804) to be submitted to Congress before taking effect. OPM will submit to Congress and the Comptroller General of the United States a report regarding the issuance of this action before its effective date, as required by 5 U.S.C. 801. OMB's Office of Information and Regulatory Affairs has determined that this is not a ''major rule'' as defined by the Congressional Review Act (5 U.S.C. 804(2)).

Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35)

This regulatory action will not impose any additional reporting or recordkeeping requirements under the Paperwork Reduction Act.

List of Subjects

5 CFR Part 870

Administrative practice and procedure, Government employees, Hostages, Iraq, Kuwait, Lebanon, Life insurance, Retirement.

5 CFR Part 875

Administrative practice and procedure, Employee benefit plans, Government contracts, Government employees, Health insurance, Military personnel, Organization and functions, Retirement.

5 CFR Part 890

Administrative practice and procedure, Government employees, Health facilities, Health insurance, Health professions, Hostages, Iraq, Kuwait, Lebanon, Military personnel, Reporting and recordkeeping requirements, Retirement.

5 CFR Part 894

Administrative practice and procedure, Government employees, Health facilities, Health insurance, Health professions, Hostages, Iraq, Kuwait, Lebanon, Military personnel, Reporting and recordkeeping requirements, Retirement.

Office of Personnel Management.

Alexys Stanley,

Regulatory Affairs Analyst.

Accordingly, OPM amends title 5, Code of Federal Regulations parts 870, 875, 890, and 894 as follows:

PART 870—FEDERAL EMPLOYEES' GROUP LIFE INSURANCE PROGRAM

■ 1. The authority citation for part 870 is revised to read as follows:

Authority: 5 U.S.C. 8716; Sec. 870.106 also issued under section 1110(b) of Pub. L. 116–92, 133 Stat. 1198 (5 U.S.C. 8702 note); Sec. 870.302(a)(3) also issued under sections 11202(f), 11232(e), and 11246(b) and (c) of Pub. L. 105–33, 111 Stat. 251, section 7(e) of Pub. L. 105–274, 112 Stat. 2419, and section 145 of Pub. L. 106–522, 114 Stat. 2472; Sec. 870.302(a)(3)(ii) also issued under section 153 of Pub. L. 104–134, 110 Stat. 1321; Secs. 870.302(b)(8), 870.601(a), and 870.602(b) also issued under Pub. L. 110–279, 122 Stat. 2604 (2 U.S.C. 2051); Subpart E also issued under 5 U.S.C. 8702(c); Sec. 870.601(d)(3) also issued under 5 U.S.C. 8706(d); Sec. 870.510 also issued under section 1622(b) of Pub. L. 104–106, 110 Stat. 521 (36 U.S.C. 5522); Sec. 870.703(e)(1) also issued under section 502 of Pub. L. 110–177, 121 Stat. 2542 (5 U.S.C. 8701 note); Sec. 870.705 also issued under 5 U.S.C. 8714b(c) and 8714c(c); and Subpart J also issued under section 599C of Pub. L. 101–513, 104 Stat. 2064 (5 U.S.C. 5561 note), as amended.

Subpart A—Administration and General Provisions

■ 2. Add § 870.106 to read as follows:

§ 870.106 Designation of FEGLI services as emergency services under the Antideficiency Act.

(a) Any services by an officer or employee relating to benefits under this part, shall be deemed, for purposes of section 1342 of Title 31, United States Code, as services for emergencies involving the safety of human life or the protection of property.

(b) The designation of services as emergency services shall apply to any lapse in appropriations beginning on or after December 20, 2019, the date of enactment of Section 1110(d) of Public Law 116–92.

PART 875—FEDERAL LONG TERM CARE INSURANCE PROGRAM

■ 3. The authority citation for part 875 is revised to reads as follows:

Authority: 5 U.S.C. 9008; Pub. L. 116–92, 133 Stat. 1198 (5 U.S.C. 8956 note).

Subpart C—Cost

■ 4. Amend § 875.302 by adding paragraph (c) to read as follows:

§ 875.302 What are the options for making premium payments?

* * * * *

(c) Notwithstanding paragraph (b) of this section, if you are an enrollee who is furloughed or excepted from furlough and working without pay during a lapse in appropriations, your FLTCIP coverage will stay in effect through such a lapse. Your coverage may not be cancelled as a result of nonpayment of premiums or other periodic charges due during such lapse. Pursuant to the National Defense Authorization Act for Fiscal Year 2020, Public Law 116–92, such continuation of coverage during a lapse in appropriations applies to any contract for long term care insurance coverage under 5 U.S.C. chapter 90 entered into before, on, or after December 20, 2019.

(1) If your premium payments are made by Federal payroll or annuity deduction, or uniformed services retirement pay deduction, premiums will be paid to the Carrier from back pay made available as soon as practicable upon the end of such a lapse. If your premium payments are made by pre-authorized debit or by direct billing, you have the option of continuing to pay premiums while you are furloughed or excepted from furlough and working without pay, or not making premium payments. If you opt not to make premium payments during this period, you will be contacted by the Carrier regarding premiums due and must pay premiums to the Carrier as soon as practicable upon the end of the lapse.

(2) Upon the end of a lapse in appropriations, premiums will be required from all impacted enrollees in accordance with enrollees' method of payment, as described in paragraph (c)(1) of this section. If you do not pay the required premiums as soon as practicable upon the end of the lapse when due, your coverage will terminate pursuant to § 875.412.

PART 890—FEDERAL EMPLOYEES HEALTH BENEFITS PROGRAM

■ 5. The authority citation for part 890 is revised to read as follows:

Authority: 5 U.S.C. 8913; Sec. 890.102 also issued under sections 11202(f), 11232(e), and 11246 (b) of Pub. L. 105– 33, 111 Stat. 251; Sec. 890.111 also issued under section 1622(b) of Pub. L. 104–106, 110 Stat. 521 (36 U.S.C. 5522); Sec. 890.112 also issued under section 1 of Pub. L. 110–279, 122 Stat. 2604 (2 U.S.C. 2051); Sec. 890.113 also issued under section 1110 of Pub. L. 116–92, 133 Stat. 1198 (5 U.S.C. 8702 note); Sec. 890.301 also issued under section 311 of Pub. L. 111–3, 123 Stat. 64 (26 U.S.C. 9801); Sec. 890.302(b) also issued under section 1001 of Pub. L. 111–148, 124 Stat. 119, as amended by Pub. L. 111–152, 124 Stat. 1029 (42 U.S.C. 300gg–14); Sec. 890.803 also issued under 50 U.S.C. 3516 (formerly 50 U.S.C. 403p) and 22 U.S.C. 4069c and 4069c–1; subpart L also issued under section 599C of Pub. L. 101–513, 104 Stat. 2064 (5 U.S.C. 5561 note), as amended; and subpart M also issued under section 721 of Pub. L. 105–261 (10 U.S.C. 1108), 112 Stat. 2061.

Subpart A—Administration and General Provisions

■ 6. Add § 890.113 to read as follows:

§ 890.113 Designation of FEHB Program services as emergency services under the Antideficiency Act.

(a) Any services by an officer or employee under this part and part 892 of this chapter relating to the enrollment of an individual in a health benefits plan under this chapter, or changing the enrollment of an individual already so enrolled, shall be deemed, for purposes of section 1342 of Title 31, United States Code, as services for emergencies involving the safety of human life or the protection of property.

(b) The designation of services as emergency services shall apply to any lapse in appropriations beginning on or after December 20, 2019, the date of enactment of Section 1110(d) of Public Law 116–92.

Subpart C—Enrollment

■ 7. Amend § 890.301 by revising the section heading and adding a heading for paragraph (n) and paragraph (o) to read as follows:

§ 890.301 Opportunities for employees to enroll or change enrollment; effective dates.

* * * * *

(n) *Determination of lowest-cost nationwide plan option.* * * *

(o) *Pay status during a lapse in appropriations.* An employee, who is furloughed or excepted from furlough and working without pay as a result of a lapse in appropriations, is deemed to be in pay status, during the lapse, for purposes of this section.

PART 894—FEDERAL EMPLOYEES DENTAL AND VISION INSURANCE PROGRAM

■ 8. The authority citation for part 894 is revised to read as follows:

Authority: 5 U.S.C. 8962; 5 U.S.C. 8992; Subpart C also issued under section 1 of Pub. L. 110–279, 122 Stat. 2604 (2 U.S.C. 2051); and Sec. 894.601(b) also issued under Pub. L. 116–92, 133 Stat. 1198 (5 U.S.C. 8956 note).

Subpart D—Cost of Coverage

■ 9. Amend § 894.405 by adding paragraph (c) to read as follows:

§ 894.405 What happens if I go into nonpay status or if my pay/annuity is insufficient to cover the allotments?

* * * * *

(c) If you are a FEDVIP enrollee, who due to a lapse in appropriations is furloughed or excepted from furlough and working without pay due to such a lapse, your FEDVIP coverage will not stop during such a lapse. Upon the end of such a lapse, premiums will be paid to the Carrier from back pay made available as soon as practicable upon the end of such a lapse.

■ 10. Amend § 894.406 by adding paragraph (c) to read as follows:

§ 894.406 What happens if my uniformed services pay or uniformed services retirement pay is insufficient to cover my FEDVIP premiums, or I go into a nonpay status?

* * * * *

(c) If you are a FEDVIP enrollee who is furloughed or excepted from furlough and working without pay due to such a lapse, your coverage will not stop during such a lapse. Upon the end of such a lapse, premiums will be paid to the Carrier using back pay.

Subpart F—Termination or Cancellation of Coverage

■ 11. Amend § 894.601 by revising paragraph (b) to read as follows:

§ 894.601 When does my FEDVIP coverage stop?

* * * * *

(b) If you go into a period of nonpay or insufficient pay (or insufficient uniformed services pay or uniformed services retirement pay) and you do not make direct premium payments, your FEDVIP coverage stops at the end of the pay period for which your agency, retirement system, *OWCP,* uniformed services or uniformed services retirement system last deducted your premium payment. *Exception:* If you are an enrollee who is furloughed or excepted from furlough and working without pay during a lapse in appropriations, your FEDVIP coverage will not stop, and your enrollment may not be cancelled as a result of nonpayment of premiums or other periodic charges due. Pursuant to the National Defense Authorization Act for Fiscal Year 2020, Public Law 116–92, such continuation of coverage during a lapse in appropriations applies to any dental or vision contract under 5 U.S.C. chapters 89A and 89B entered into before, on, or after December 20, 2019.

* * * * *

[FR Doc. 2021–05624 Filed 4–1–21; 8:45 am]

BILLING CODE 6324–64–P

DEPARTMENT OF AGRICULTURE

Rural Utilities Service

7 CFR Part 1752

RIN 0572–AC41

Special Servicing of Telecommunications Programs Loans for Financially Distressed Borrowers

AGENCY: Rural Utilities Service, USDA.

ACTION: Final rule; confirmation and response to comments.

SUMMARY: The Rural Utilities Service (RUS), a Rural Development agency of the United States Department of Agriculture (USDA), is confirming the final rule published in the **Federal Register** on February 25, 2020 to outline the general policies for servicing actions associated with financially distressed borrowers from the Telecommunications Infrastructure Loan Program, Rural Broadband Program, Distance Learning and Telemedicine Program, Broadband Initiatives Program, and Rural e-Connectivity Pilot Program. This document also provides the Agency an opportunity to acknowledge the one public comment received on the final rule.

DATES: Effective April 2, 2021, the final rule published February 25, 2020 at 85 FR 10555 is confirmed.

FOR FURTHER INFORMATION CONTACT: Laurel Leverrier, Assistant Administrator Telecommunications Program, Rural Utilities Service, U.S. Department of Agriculture (USDA), email: *laurel.leverrier@usda.gov,* telephone: (202) 720–3416.

SUPPLEMENTARY INFORMATION: The Rural Utilities Service improves the quality of life in rural America by providing investment capital for deployment of rural telecommunications infrastructure. To achieve the goal of increasing economic opportunity in rural America,

the Agency finances infrastructure that enables access to a seamless, nationwide telecommunications network. With access to the same advanced telecommunications networks as its urban counterparts—especially those designed to accommodate distance learning, telework, and telemedicine—rural America will eventually see improving educational opportunities, health care, economies, safety and security, and ultimately higher employment. The Telecommunications Infrastructure Loan Program, Rural Broadband Program, Distance Learning and Telemedicine Program, Broadband Initiatives Program and ReConnect Program (hereinafter collectively referred to as the ''RUS Telecommunications Programs'') provide loan funding to build and expand broadband and telecommunications services in rural communities.

This final rule confirms the final rule that published in the **Federal Register** on February 25, 2020 at 85 FR 10555, which outlines the general policies and procedures for servicing actions associated with the RUS Telecommunications Programs Borrowers in financial distress with the mutual objective of avoiding or resolving a monetary default of the RUS debt. This final rule will ensure that recipients comply with the established objectives and requirements for loans, repaying loans on schedule or within the revised terms as agreed to by the Agency, and act in accordance with any necessary agreements. It will also ensure that the Agency will handle servicing actions in a consistent approach across all RUS Telecommunications Programs, as well as protect the financial interest of the Agency.

Summary of Comments and Responses

RUS invited comments on the final rule published in the **Federal Register** on February 25, 2020 at (85 FR 10555). While two comments were received, one was not relevant to this rule. The only relevant comment, submitted by NTCA-THE RURAL BROADBAND ASSOCIATION, contained four (4) modifications/considerations relevant to the servicing rule (SR). The Agency's responses are as follows:

Issue 1: NTCA recommends the creation of an interface to guide staff and borrowers to the selection of the most appropriate loan servicing option.

Agency Response: RUS agrees that the suggestion to have interface with borrowers to receive guidance from the Agency is a suggestion worth exploring and will take it under consideration. Since every distressed borrower has distinct financial and legal issues, the agency is considering issuing written guidance, such as FAQs, and implementing, a help desk, or possibly even outreach events such as webinars.

Issue 2: NTCA recommends the agency consider historic repayment performance of borrowers (both individually and in the respective programs) in reservicing proceedings.

Agency Response: In determining feasibility of any requested action, the agency already takes into consideration the borrower's historical and current financial information, which includes its repayment history. Additionally, the required financial forecast provides the Agency with the borrower's own assessment and prediction as to repayment.

Issue 3: NTCA urges consideration of the utilization of waivers to avoid ''unnecessary or onerous filings''.

Agency Response:

RUS is mindful of the timing and the cost associated with preparing some of the required information to seek special servicing actions. However, the agency needs to request the core documents for consideration of all distressed borrowers so that all every borrower is treated in the same manner. More importantly, these core documents are the minimum financial information that is necessary to make an informed decision on the servicing option.

With respect to the additional documents that may be requested by the Agency under section 1752.6, the agency notes that only information related to the specific servicing action will be requested. That said, the borrower will have ample opportunity to suggest the most efficient and cost-effective ways to provide this information to the RUS.

Issue 4: NTCA supports the conclusion of reservicing requests within a reasonable timeframe.

Agency Response: RUS agrees that timing is often critical in dealing with financially distressed borrowers whose resources may be limited and are rapidly being depleted. It is nevertheless important not to rush through a process which may lead to overlooking key factors or result in outright errors which may waste precious time in the long run.

As indicated above, most distressed borrowers have distinct financial and legal issues which require different periods to resolve. The time frame for completing a loan workout is a function of numerous factors including: (1) The complexity and depth of the challenges facing the borrower; (2) the completeness and quality of the information provided with the initial request; (3) how much time since the problems surfaced before the borrower seeks assistance; and (4) the experience and qualifications of management and their team. The availability of resources at RUS may also be a factor. As such, it would not be in the best interest of any of the parties to establish a set timeframe for servicing. Similarly, a ''fast track'' of the process, or the use of waivers, may not produce the best possible outcome for the borrower.

The RUS appreciates the interest of the NTCA-The Rural Broadband Association (NTCA) with regard to the Special Servicing of Telecommunications Programs Loans for Financially Distressed Borrowers final rule and thanks them for their submission.

Christopher A. McLean,

Acting Administrator, Rural Utilities Service.

[FR Doc. 2021–06381 Filed 4–1–21; 8:45 am]

BILLING CODE 3410–15–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2020–0801; Product Identifier 2019–SW–101–AD; Amendment 39–21472; AD 2021–06–05]

RIN 2120–AA64

Airworthiness Directives; Airbus Helicopters Deutschland GmbH Helicopters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The FAA is superseding Airworthiness Directive (AD) 2017–07–08 for Airbus Helicopters Deutschland GmbH (Airbus Helicopters) Model MBB–BK 117 D–2 helicopters. AD 2017–07–08 required repetitively inspecting each engine mount elastomeric bushing (elastomeric bushing). Since the FAA issued AD 2017–07–08, Airbus Helicopters has designed an improved engine mount metal bushing (metal bushing). This new AD retains the inspection requirements of AD 2017–07–08 and requires replacing each affected engine mount bushing with an improved engine mount bushing, while also requiring repetitive inspections of the improved engine mount bushing. This AD also prohibits installing an elastomeric bushing on any helicopter. The actions of this AD are intended to address an unsafe condition on these products.

DATES: This AD is effective May 7, 2021.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of May 7, 2021.

ADDRESSES: For service information identified in this final rule, contact Airbus Helicopters, 2701 N Forum Drive, Grand Prairie, TX 75052; telephone (972) 641–0000 or (800) 232–0323; fax (972) 641–3775; or at *https://www.airbus.com/helicopters/services/technical-support.html.* You may view this referenced service information at the FAA, Office of the Regional Counsel, Southwest Region, 10101 Hillwood Pkwy., Room 6N–321, Fort Worth, TX 76177. It is also available on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2020–0801.

Examining the AD Docket

You may examine the AD docket on the internet at *https://www.regulations.gov in* Docket No. FAA–2020–0801; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this AD, the European Union Aviation Safety Agency (EASA) AD, any service information that is incorporated by reference, any comments received, and other information. The street address for Docket Operations is U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Matt Fuller, AD Program Manager, General Aviation & Rotorcraft Unit, Airworthiness Products Section, Operational Safety Branch, FAA, 10101 Hillwood Pkwy., Fort Worth, TX 76177; telephone (817) 222–5110; email *matthew.fuller@faa.gov.*

SUPPLEMENTARY INFORMATION:

Discussion

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to remove AD 2017–07–08, Amendment 39–18846 (82 FR 16895, April 7, 2017) (AD 2017–07–08), and add a new AD. AD 2017–07–08 applied to Airbus Helicopters Model MBB–BK 117 D–2 helicopters and required repetitive visual inspections of each elastomeric bushing of the inner and outer forward trusses of both engines, and depending on the outcome of the inspections, repairing or replacing the elastomeric bushings. AD 2017–07–08 was prompted by EASA AD 2015–0198, dated September 30, 2015 (EASA AD 2015–0198), issued by EASA, which is the Technical Agent for the Member States of the European Union. EASA advised that during a pre-flight check of a Model MBB–BK 117 D–2 helicopter, an elastomeric bushing was found delaminated. More cases of delaminated elastomeric bushings were reported following additional investigations. According to EASA, this condition could lead to cracks and eventually failure of the engine mount front support pins, possibly resulting in loss of helicopter control.

The NPRM published in the **Federal Register** on August 27, 2020 (85 FR 52931) and was prompted by EASA issuing a series of ADs to supersede EASA AD 2015–0198. EASA issued AD 2019–0030, dated February 13, 2019 (EASA AD 2019–0030), to supersede EASA AD 2015–0198. EASA AD 2019–0030 advises that Airbus Helicopters has designed an improved engine mount bushing P/N B712M10X1001, which when installed becomes a terminating action for the repetitive inspections of elastomeric bushing P/N 105–60386. Accordingly, EASA AD 2019–0030 requires installation of improved engine mount bushing P/N B712M10X1001 and also prohibits the installation of elastomeric bushing P/N 105–60386 on any Model MBB–BK 117 D–2 helicopter. Since EASA issued AD 2019–0030, occurrences were reported of finding damaged metal bushings. EASA issued AD 2019–0275, dated November 7, 2019 (EASA AD 2019–0275), which retains the requirements of EASA AD 2019–0030 and requires repetitive visual inspections of the metal bushings. EASA AD 2019–0275 also updates the terminology used in the definitions section from affected part to elastomeric bushing and from serviceable part to metal bushing. The NPRM proposed to retain the repetitive visual inspections of AD 2017–07–08 and proposed to require installing metal bushing part number (P/N) B712M10X1001, which would terminate the repetitive inspections of elastomeric bushing P/N 105–60386. The NPRM also proposed to require repetitive inspections of metal bushing P/N B712M10X1001 and prohibit the installation of elastomeric bushing P/N 105–60386 on any helicopter.

Comments

The FAA gave the public the opportunity to participate in developing this final rule, but the FAA did not receive any comments on the NPRM or on the determination of the cost to the public.

FAA's Determination

These helicopters have been approved by EASA and are approved for operation in the United States. Pursuant to the FAA's bilateral agreement with the European Union, EASA has notified the FAA of the unsafe condition described in its AD. The FAA is issuing this AD after evaluating all of the information provided by EASA and determining the unsafe condition exists and is likely to exist or develop on other helicopters of these same type design and that air safety and the public interest require adopting the AD requirements as proposed.

Differences Between This AD and the EASA AD

EASA AD 2019–0275 allows a non-cumulative tolerance of 10 hours time-in-service for its required compliance times. This AD does not. EASA AD 2019–0275 requires reporting inspection results to Airbus Helicopters Deutschland GmbH if any worn or heavily worn metal is found, whereas this AD does not.

Related Service Information Under 1 CFR Part 51

The FAA reviewed Airbus Helicopters Alert Service Bulletin (ASB) MBB–BK117 D–2–71A–002, Revision 1, dated December 14, 2018. This service information specifies instructions for repetitive visual inspections of elastomeric bushing P/N 105–60386 for defects, deformation, separation of the rubber, and missing rubber. If there is any deformation or separation of the rubber, this service information provides instructions to replace the affected parts with serviceable parts. This service information also specifies replacing elastomeric bushings P/N 105–60386 with metal bushings P/N B712M10X1001. This service information also does not allow the new metal bushings P/N B712M10X1001 to be installed on any helicopter together with the elastomeric bushings P/N 105–60386. This service information also prohibits installing elastomeric bushings P/N 105–60386 after installation of new metal bushings P/N B712M10X1001.

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 Airbus Helicopters ASB MBB–BK117 D–2–71A–011, Revision 0, dated October 16, 2019. This service information specifies instructions for repetitive inspections of

the metal bushings P/N B712M10X1001 of the inner and outer forward trusses for worn metal bushings (gapping between the inner and outer truss less than 1mm) and heavily worn metal bushings (inner and outer metal bushings showing contact marks or worn out metal mesh).

The FAA also reviewed Airbus Helicopters AMM BK117 C2C2e, dated August 7, 2018. This service information specifies instructions for a detailed inspection of the engine mount bushings.

Costs of Compliance

The FAA estimates that this AD affects 30 helicopters of U.S. Registry. The FAA estimates that operators may incur the following costs in order to comply with this AD. Labor costs are estimated at $85 per work-hour.

Inspecting the engine mount bushings will take about 1 work-hour, for an estimated cost of $85 per helicopter and $2,550 for the U.S. fleet. Replacing the three engine mount bushings will take about 8 work-hours and parts would cost about $2,505, for an estimated cost of $3,185 per helicopter.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by:

■ a. Removing Airworthiness Directive (AD) 2017–07–08, Amendment 39–18846 (82 FR 16895, April 7, 2017); and

■ b. Adding the following new AD:

2021–06–05 Airbus Helicopters Deutschland GmbH Amendment 39–21472; Docket No. FAA–2020–0801; Product Identifier 2019–SW–101–AD.

(a) Applicability

This airworthiness directive (AD) applies to Airbus Helicopters Deutschland GmbH Model MBB–BK 117 D–2 helicopters, certificated in any category, with an engine mount elastomeric bushing (elastomeric bushing) part number (P/N) 105–60386 or an engine mount metal bushing (metal bushing) P/N B712M10X1001 installed.

(b) Unsafe Condition

This AD defines the unsafe condition as a delaminated elastomeric bushing. This condition could result in excessive vibration, which could lead to cracking and failure of the engine mount front support pins, and loss of helicopter control.

(c) Affected ADs

This AD replaces AD 2017–07–08, Amendment 39–18846 (82 FR 16895, April 7, 2017).

(d) Effective Date

This AD becomes effective May 7, 2021.

(e) Compliance

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

(f) Required Actions

(1) For helicopters with an elastomeric bushing P/N 105–60386 installed, within 50 hours time-in-service (TIS) and thereafter at intervals not to exceed 50 hours TIS:

(i) Visually inspect each elastomeric bushing for separation of the rubber from the metal or missing rubber by following Section 3.B.2 of Airbus Helicopters Alert Service Bulletin (ASB) MBB–BK117 D–2–71A–002, Revision 1, dated December 14, 2018.

(ii) If any rubber has separated from the metal or if there is missing rubber, before further flight, inspect the elastomeric bushing for deformation, corrosion, and mechanical damage.

(A) Replace the elastomeric bushing with an airworthy engine mount bushing if there is any deformation, separation of the rubber from the metal, corrosion, or mechanical damage, or repair the elastomeric bushing if the deformation, separation of the rubber, corrosion, or mechanical damage is within the maximum repair damage limitations.

(B) If the inner and outer parts of the elastomeric bushing are separated with missing rubber, before further flight, replace the elastomeric bushing with an airworthy engine mount bushing.

(2) For helicopters with a metal bushing P/N B712M10X1001 installed, within 100 hours TIS, and thereafter every 100 hours TIS, visually inspect the metal bushing of the inner and outer forward trusses for gapping between the inner and outer truss, contact marks on the inner and outer engine mount bushings, and worn out metal mesh.

(i) If there is gapping between the inner and outer truss less than 1mm, within 50 hours TIS, replace the metal bushing with an airworthy engine mount bushing.

(ii) If there is gapping between the inner and outer truss of 1mm or greater than 1mm, contact marks on the inner or outer engine mount bushings, or worn out metal mesh, before further flight, replace the metal bushing with an airworthy engine mount bushing.

(3) For helicopters with an elastomeric bushing P/N 105–60386 installed, within 300 hours TIS, replace each elastomeric bushing P/N 105–60386 with metal bushing P/N B712M10X1001.

(4) Performing the actions required by paragraph (f)(3) of this AD constitutes a terminating action for the repetitive inspections required by paragraph (f)(1) of this AD.

(5) As of the effective date of this AD, do not install elastomeric bushing P/N 105–60386 on any helicopter.

(g) Alternative Methods of Compliance (AMOCs)

(1) The Manager, International Validation Branch, FAA, may approve AMOCs for this AD. Send your proposal to: Matt Fuller, AD Program Manager, General Aviation & Rotorcraft Unit, Airworthiness Products Section, Operational Safety Branch, 10101 Hillwood Pkwy., Fort Worth, TX 76177; telephone (817) 222–5110; email *9-AVS-AIR-730-AMOC@faa.gov.*

(2) For operations conducted under a 14 CFR part 119 operating certificate or under 14 CFR part 91, subpart K, the FAA suggests that you notify your principal inspector, or lacking a principal inspector, the manager of the local flight standards district office or

certificate holding district office, before operating any aircraft complying with this AD through an AMOC.

(h) Additional Information

(1) Airbus Helicopters ASB MBB–BK117 D–2–71A–011, Revision 0, dated October 16, 2019, and Airbus Helicopters AMM BK117 C2C2e, dated August 7, 2018, which are not incorporated by reference, contain additional information about the subject of this AD. This service information is available at the addresses specified in paragraphs (j)(3) and (4) of this AD.

(2) The subject of this AD is addressed in European Union Aviation Safety Agency (EASA) 2019–0275, dated November 7, 2019. You may view the EASA AD on the internet at *https://www.regulations.gov* in Docket No. FAA–2020–0801.

(i) Subject

Joint Aircraft Service Component (JASC) Code: 7200, Engine (Turbine, Turboprop).

(j) Material Incorporated by Reference

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

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

(i) Airbus Helicopters Alert Service Bulletin MBB–BK117 D–2–71A–002, Revision 1, dated December 14, 2018.

(ii) [Reserved]

(3) For service information identified in this AD, contact Airbus Helicopters, 2701 N Forum Drive, Grand Prairie, TX 75052; telephone (972) 641–0000 or (800) 232–0323; fax (972) 641–3775; or at *https://www.airbus.com/helicopters/services/technical-support.html.*

(4) You may view this service information at FAA, Office of the Regional Counsel, Southwest Region, 10101 Hillwood Pkwy., Room 6N–321, Fort Worth, TX 76177. For information on the availability of this material at the FAA, call (817) 222–5110.

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

Issued on March 5, 2021.

Lance T. Gant,

Director, Compliance & Airworthiness Division, Aircraft Certification Service.

[FR Doc. 2021–06771 Filed 4–1–21; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2020–1114; Project Identifier 2019–SW–058–AD; Amendment 39–21443; AD 2021–04–21]

RIN 2120–AA64

Airworthiness Directives; Airbus Helicopters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for certain Airbus Helicopters Model EC120B helicopters. This AD was prompted by a report of broken and bent attachment bolts of the main rotor (MR) hub scissors assembly. This AD requires an inspection of the attachment bolts of the MR hub scissors assembly for discrepancies and repair if necessary; part marking of the attachment bolts of the MR hub scissors assembly; and repetitive inspections of the part marking of the attachment bolts, and repair if necessary; as specified in a European Union Aviation Safety Agency (EASA) AD, which is incorporated by reference. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective May 7, 2021.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of May 7, 2021.

ADDRESSES: For material 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 material on the EASA website at *https://ad.easa.europa.eu.* You may view this material at the FAA, Office of the Regional Counsel, Southwest Region, 10101 Hillwood Pkwy., Room 6N–321, Fort Worth, TX 76177. For information on the availability of this material at the FAA, call 817–222–5110. It is also available in the AD docket on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2020–1114.

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–2020–1114; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, any comments received, and other information. The address for Docket Operations is U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Hal Jensen, Aerospace Engineer, Operational Safety Branch, FAA, 470 L'Enfant Plaza SW, Washington, DC 20024; phone: 202–267–9167; email: *hal.jensen@faa.gov.*

SUPPLEMENTARY INFORMATION:

Discussion

The EASA, which is the Technical Agent for the Member States of the European Union, has issued EASA AD 2019–0139, dated June 12, 2019 (EASA AD 2019–0139) (also referred to as the Mandatory Continuing Airworthiness Information, or the MCAI), to correct an unsafe condition for all Airbus Helicopters Model EC120B helicopters. Although the EASA AD applies to all Model EC120B helicopters, this AD applies to that model helicopter with an affected part installed instead.

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to certain Airbus Helicopters Model EC120B helicopters. The NPRM published in the **Federal Register** on December 10, 2020 (85 FR 79435). The NPRM was prompted by a report of broken and bent attachment bolts of the MR hub scissors assembly. The NPRM proposed to require an inspection of the attachment bolts of the MR hub scissors assembly for discrepancies and repair if necessary; part marking of the attachment bolts of the MR hub scissors assembly; and repetitive inspections of the part marking of the attachment bolts, and repair if necessary; as specified in an EASA AD.

The FAA is issuing this AD to address broken and bent attachment bolts of the MR hub scissors assembly, which could lead to detachment of a MR hub scissors attachment bolt, possibly resulting in complete loss of control of the helicopter. See the MCAI for additional background information.

Comments

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

Conclusion

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

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

Related Service Information Under 1 CFR Part 51

EASA AD 2019–0139 describes procedures for an inspection of the attachment bolts of the MR hub scissors assembly for discrepancies (discrepancies include corrosion, fretting, wear, cracking, bolt play, and bolt tightening torque); and repair if necessary; part marking of the attachment bolts of the MR hub scissors assembly; and repetitive inspections, after part marking, of the attachment bolts for discrepancies, and repair if necessary. The inspections of the attachment bolts of the MR hub assembly include checking the play and torque of the scissors attachment bolts and making sure that there are no hard spots in the scissors link hinge.

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.

Costs of Compliance

The FAA estimates that this AD affects 160 helicopters of U.S. registry. The FAA estimates the following costs to comply with this AD:

ESTIMATED COSTS FOR REQUIRED ACTIONS

Labor cost	Parts cost	Cost per product	Cost on U.S. operators
5 work-hours × $85 per hour = $425	$0	$425	$68,000

The FAA estimates that it would take about 1 hour per product to comply with the reporting requirement in this AD. The average labor rate is $85 per hour. Based on these figures, the FAA estimates the cost of reporting on U.S. operators to be $13,600, or $85 per product.

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

ESTIMATED COSTS OF ON-CONDITION ACTIONS

Labor cost	Parts cost	Cost per product
4 work-hours × $85 per hour = $340	$40	$380

Paperwork Reduction Act

A federal agency may not conduct or sponsor, and a person is not required to respond to, nor shall a person be subject to penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act unless that collection of information displays a current valid OMB control number. The control number for the collection of information required by this AD is 2120–0056. The paperwork cost associated with this AD has been detailed in the Costs of Compliance section of this document and includes time for reviewing instructions, as well as completing and reviewing the collection of information. Therefore, all reporting associated with this AD is mandatory. Comments concerning the accuracy of this burden and suggestions for reducing the burden should be directed to Information Collection Clearance Officer, Federal Aviation Administration, 10101 Hillwood Pkwy., Fort Worth, TX 76177–1524.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2021–04–21 Airbus Helicopters: Amendment 39–21443; Docket No. FAA–2020–1114; Project Identifier 2019–SW–058–AD.

(a) Effective Date

This airworthiness directive (AD) is effective May 7, 2021.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Airbus Helicopters Model EC120B helicopters, certificated in any category, having an affected part as defined in European Union Aviation Safety Agency (EASA) AD 2019–0139, dated June 12, 2019 (EASA AD 2019–0139).

(d) Subject

Joint Aircraft System Component (JASC) Code 6200, Main Rotor System.

(e) Reason

This AD was prompted by a report of broken and bent attachment bolts of the main rotor (MR) hub scissors assembly. The FAA is issuing this AD to address broken and bent attachment bolts of the MR hub scissors assembly, which could lead to detachment of a MR hub scissors attachment bolt, possibly resulting in complete loss of control of the helicopter.

(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, EASA AD 2019–0139.

(h) Exceptions to EASA AD 2019–0139

(1) Where EASA AD 2019–0139 refers to its effective date, this AD requires using the effective date of this AD.

(2) Where EASA AD 2019–0139 refers to September 5, 2018 (the effective date of EASA AD 2018–0186, dated August 29, 2018), this AD requires using the effective date of this AD.

(3) The ''Remarks'' section of EASA AD 2019–0139 does not apply to this AD.

(4) Where EASA AD 2019–0139 refers to flight hours (FH), this AD requires using hours time-in-service.

(5) Paragraphs (3) and (4) of EASA AD 2019–0139 refer to ''discrepancies.'' For this AD, discrepancies include corrosion, fretting, wear, cracking, bolt play, and bolt tightening torque.

(6) Although the service information referenced in EASA AD 2019–0139 specifies to discard certain parts, this AD does not include that requirement.

(7) Where EASA AD 2019–0139 specifies to contact the manufacturer for repair instructions, repair using a method approved by the Manager, Strategic Policy Rotorcraft Section, FAA. For a repair method to be approved by the Manager, Strategic Policy Rotorcraft Section, as required by this paragraph, the Manager's approval letter must specifically refer to this AD.

(8) Paragraph (5) of EASA AD 2019–0139 specifies to report inspection results to Airbus Helicopters within a certain compliance time. For this AD, report inspection results at the applicable time specified in paragraph (h)(8)(i) or (ii) of this AD.

(i) If the inspection was done on or after the effective date of this AD: Submit the report within 30 days after the inspection.

(ii) If the inspection was done before the effective date of this AD: Submit the report within 30 days after the effective date of this AD.

(i) Alternative Methods of Compliance (AMOCs)

(1) The Manager, Strategic Policy Rotorcraft Section, 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 Strategic Policy Rotorcraft Section, send it to: Manager, Strategic Policy Rotorcraft Section, FAA, 10101 Hillwood Pkwy., Fort Worth, TX 76177; telephone 817–222–5110. Information may be emailed to: *9-ASW-FTW-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.

(j) Related Information

For more information about this AD, contact Hal Jensen, Aerospace Engineer, Operational Safety Branch, FAA, 470 L'Enfant Plaza SW, Washington, DC 20024; phone: 202–267–9167; email: *hal.jensen@faa.gov.*

(k) Material Incorporated by Reference

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

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

(i) European Union Aviation Safety Agency (EASA) AD 2019–0139, dated June 12, 2019.

(ii) [Reserved]

(3) For EASA AD 2019–0139, 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.*

(4) You may view this service information at the FAA, Office of the Regional Counsel, Southwest Region, 10101 Hillwood Pkwy., Room 6N–321, Fort Worth, TX 76177. For information on the availability of this material at the FAA, call 817–222–5110. 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–2020–1114.

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

Issued on February 11, 2021.

Lance T. Gant,

Director, Compliance & Airworthiness Division, Aircraft Certification Service.

[FR Doc. 2021–06772 Filed 4–1–21; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2020–0797; Product Identifier 2018–SW–081–AD; Amendment 39–21464; AD 2021–05–21]

RIN 2120–AA64

Airworthiness Directives; Leonardo S.p.a. (Type Certificate Previously Held by Agusta S.p.A.) Helicopters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The FAA is superseding Airworthiness Directive (AD) 2017–23–08 for Agusta S.p.A. (now Leonardo S.p.a.) Model AB139 and AW139 helicopters. AD 2017–23–08 required repetitively inspecting the main rotor (M/R) rotating scissors, removing certain lower half scissor spherical bearings (bearings) from service, replacing the removed bearings with a new bearing, and installing a special nut. This new AD retains the requirements of AD 2017–23–08 and requires replacing each affected bearing with a certain part-numbered bearing. This AD was prompted by investigation results determining that a quality control issue may have affected the production of the affected bearings. The actions of this AD are intended to address an unsafe condition on these products.

DATES: This AD is effective May 7, 2021.

The Director of the Federal Register approved the incorporation by reference

of a certain publication listed in this AD as of May 7, 2021.

ADDRESSES: For service information identified in this final rule, contact Leonardo S.p.a. Helicopters, Emanuele Bufano, Head of Airworthiness, Viale G.Agusta 520, 21017 C.Costa di Samarate (Va) Italy; telephone +39–0331–225074; fax +39–0331–229046; or at *https://www.leonardocompany.com/en/home.* You may view the referenced service information at the FAA, Office of the Regional Counsel, Southwest Region, 10101 Hillwood Pkwy., Room 6N–321, Fort Worth, TX 76177. It is also available on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2020–0797.

Examining the AD Docket

You may examine the AD docket on the internet at *https://www.regulations.gov in* Docket No. FAA–2020–0797; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this AD, the European Aviation Safety Agency (now European Union Aviation Safety Agency) (EASA) AD, any service information that is incorporated by reference, any comments received, and other information. The street address for Docket Operations is U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Matt Fuller, AD Program Manager, Operational Safety Branch, Airworthiness Products Section, General Aviation and Rotorcraft Unit, 10101 Hillwood Pkwy., Fort Worth, TX 76177; telephone 817–222–5110; email *Matthew.Fuller@faa.gov.*

SUPPLEMENTARY INFORMATION:

Discussion

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to supersede AD 2017–23–08, Amendment 39–19102 (82 FR 55752, November 24, 2017) (AD–2017–23–08). AD 2017–23–08 applied to Agusta S.p.A. (now Leonardo S.p.a.) Model AB139 and AW139 helicopters with M/R rotating scissors with a bearing part number (P/N) 3G6230V00654 installed. The NPRM published in the **Federal Register** on September 15, 2020 (85 FR 57165). The NPRM proposed to retain the repetitive inspection requirements of AD 2017–23–08, and continue to require replacing the bearing with an improved bearing, replacing the rotating scissor attachment flange with a certain part-numbered rotating scissor attachment flange, and replacing the nut with a certain part-numbered special nut. The NPRM also proposed to require removing each bearing P/N 3G6230V00654 from service and replacing it with bearing P/N 3G6230V00655 within 100 hours time-in-service (TIS).

The NPRM was prompted by EASA Emergency AD (EAD) No. 2017–0028–E, dated February 15, 2017 (EASA EAD 2017–0028–E) issued by EASA, which is the Technical Agent for the Member States of the European Union, to correct an unsafe condition for Leonardo S.p.a. Model AB139 and AW139 helicopters. EASA advises that investigation results by the supplier of the bearings determined that a quality control issue may have affected the production of bearing P/N 3G6230V00654. Accordingly, this AD retains the requirements of AD 2017–23–08 and requires replacing bearing P/N 3G6230V00654 with P/N 3G6230V00655.

Comments

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

Support for the NPRM

An individual commenter supported the NPRM.

Request for the FAA To Provide More Information

Request: One commenter requested more information about the purpose of this new AD. The commenter stated that the AD from 2017 (AD 2017–23–08) already removes all P/N 3G6230V00654 bearings from service.

FAA Response: The FAA disagrees that this AD is unnecessary. AD 2017–23–08 only required the replacement of the bearing if it failed an inspection, whereas this AD requires this part-numbered bearing to be removed from service within a certain compliance time.

FAA's Determination

These helicopters have been approved by EASA and are approved for operation in the United States. Pursuant to the FAA's bilateral agreement with the European Union, EASA has notified the FAA of the unsafe condition described in its AD. The FAA is issuing this AD after evaluating all of the information provided by EASA and determining the unsafe condition exists and is likely to exist or develop on other helicopters of these same type designs and that air safety and the public interest require adopting the AD requirements as proposed.

Differences Between This AD and the EASA AD

The EASA AD specifies some compliance times using calendar time, whereas this AD does not. The EASA AD requires reporting information to Leonardo S.p.a. Product Support Engineering, whereas this AD does not.

Related Service Information Under 1 CFR Part 51

The FAA reviewed Leonardo Helicopters Alert Bollettino Tecnico No. 139–392, Revision A, dated February 14, 2017. This service information specifies repetitively inspecting the M/R rotating scissors to monitor the bearings and replacing the bearing with a new part-numbered bearing. This service information also specifies installing a special nut in case of lower scissor bearing dislodging.

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 Leonardo Helicopters AW139 IETP Document Code AMP–39–A–62–31–00–00A–31AC–A, Rotating control installation—Fixed swashplate and rotating scissors—Detailed inspection, Issue 29, dated July 31, 2017, which describes procedures for a detailed inspection of the fixed swashplate and rotating scissors.

Costs of Compliance

The FAA estimates that this AD affects 102 helicopters of U.S. Registry. Labor rates are estimated at $85 per work-hour. Based on these numbers, the FAA estimates that operators may incur the following costs in order to comply with this AD.

Inspecting for bearing liner wear, seat movement, and play takes about 1 work-hour for a cost of $85 per helicopter and $8,670 for the U.S. fleet per inspection cycle.

Replacing a bearing takes about 2 work-hours and parts cost about $950 for a cost of $1,120 per bearing.

Replacing a rotating scissor attachment flange takes about 0.25 work-hours and parts cost about $25,629 for a cost of $25,650 per flange.

Installing two special nuts takes about 1 work-hour and parts cost about $755 for a cost of $840 per helicopter and $85,680 for the U.S. fleet.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by:

■ a. Removing Airworthiness Directive (AD) 2017–23–08, Amendment 39–19102 (82 FR 55752, November 24, 2017); and

■ b. Adding the following new AD:

2021–05–21 Leonardo S.p.a. (Type Certificate Previously Held by Agusta S.p.A.): Amendment 39–21464; Docket No. FAA–2020–0797; Product Identifier 2018–SW–081–AD.

(a) Applicability

This airworthiness directive (AD) applies to Leonardo S.p.a. Model AB139 and AW139 helicopters, certified in any category, with main rotor (M/R) rotating scissors with a lower half scissor spherical bearing (bearing) P/N 3G6230V00654 installed.

(b) Unsafe Condition

This AD defines the unsafe condition as excessive play of the bearing in the M/R rotating scissors. This condition could result in failure of the M/R rotating scissor bearing and loss of helicopter control.

(c) Affected ADs

This AD replaces AD 2017–23–08, Amendment 39–19102; (82 FR 55752, November 24, 2017) (AD 2017–23–08).

(d) Effective Date

This AD becomes effective May 7, 2021.

(e) Compliance

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

(f) Required Actions

(1) Within 5 hours time-in-service (TIS) after December 11, 2017 (the effective date of AD 2017–23–08), and thereafter before the first flight of each day or at intervals not exceeding 24-clock hours, whichever occurs later:

(i) Using a magnifying glass and a flashlight, visually inspect each bearing for wear of the bearing liner. Some examples of wear are shown in Figures 4 through 8 of Leonardo Helicopters Alert Bollettino Tecnico No. 139–392, Revision A, dated February 14, 2017 (BT 139–392). If there is any wear of the liner, before further flight, replace the bearing with bearing P/N 3G6230V00655 and install special nut P/N 3G6230A06851. Replacing the bearing with bearing P/N 3G6230V00655 constitutes terminating action for the remaining actions of this AD for the bearing.

(ii) Inspect each bearing for movement. Refer to Figure 9 of BT 139–392. If the bearing moves freely out of its seat, before further flight, replace the rotating scissor attachment flange with flange P/N 3G6220A00633, replace the bearing with bearing P/N 3G6230V00655 and install special nut P/N 3G6230A06851. Replacing the bearing with bearing P/N 3G6230V00655 constitutes terminating action for the remaining actions of this AD for the bearing.

(iii) Inspect the M/R rotating scissors for play and wear of each bearing, paying particular attention to the bearing staking condition, by manually moving the lower half scissor along the axis of the spherical bearing. Refer to Figure 1 of BT 139–392. If there is any play or wear beyond allowable limits, before further flight, replace the bearing with bearing P/N 3G6230V00655 and install special nut P/N 3G6230A06851. Replacing the bearing with bearing P/N 3G6230V00655 constitutes terminating action for the remaining actions of this AD for the bearing.

(2) Within 100 hours TIS after the effective date of this AD, replace and torque each lower half scissor nut with special nut P/N 3G6230A06851 to the M/R rotating scissor in accordance with the Compliance Instructions, Part II, steps 5.1 through 5.9 of BT 139–392, except you are not required to discard parts.

(3) Within 100 hours TIS after the effective date of this AD, remove each bearing P/N 3G6230V00654 from service and replace with bearing P/N 3G230V00655.

(4) After December 11, 2017 (the effective date of AD 2017–23–08), do not install on any helicopter any M/R rotating scissors with a bearing P/N 3G6230V00654 installed.

(g) Alternative Methods of Compliance (AMOCs)

(1) The Manager, Strategic Policy Rotorcraft Section, 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 Strategic Policy Rotorcraft Section, send it to the attention of: Matt Fuller, AD Program Manager, Operational Safety Branch, Airworthiness Products Section, General Aviation and Rotorcraft Unit, 10101 Hillwood Pkwy., Fort Worth, TX 76177; telephone 817–222–5110; email *9-ASW-FTW-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.

(h) Additional Information

(1) For service information identified in this AD, contact Leonardo S.p.a. Helicopters, Emanuele Bufano, Head of Airworthiness, Viale G.Agusta 520, 21017 C.Costa di Samarate (Va) Italy; telephone +39–0331–225074; fax +39–0331–229046; or at *https://www.leonardocompany.com/en/home.*

(2) The subject of this AD is addressed in European Aviation Safety Agency (now European Union Aviation Safety Agency) (EASA) AD No. 2017–0028–E, dated February 15, 2017. You may view the EASA AD on the internet at *https://www.regulations.gov* in the AD Docket.

(i) Subject

Joint Aircraft Service Component (JASC) Code: 6200, Main Rotor System.

(j) Material Incorporated by Reference

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

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

(i) Leonardo Helicopters Alert Bollettino Tecnico No. 139–392, Revision A, dated February 14, 2017.

(ii) [Reserved]

(3) For service information identified in this AD, contact Leonardo S.p.A. Helicopters, Emanuele Bufano, Head of Airworthiness, Viale G. Agusta 520, 21017 C. Costa di Samarate (Va) Italy; telephone +39–0331–225074; fax +39–0331–229046; or at *https://www.leonardocompany.com/en/home.*

(4) You may view this service information at the FAA, Office of the Regional Counsel, Southwest Region, 10101 Hillwood Pkwy., Room 6N–321, Fort Worth, TX 76177. For information on the availability of this material at the FAA, call 817–222–5110.

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

Issued on February 26, 2021.

Gaetano A. Sciortino,

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

[FR Doc. 2021–06773 Filed 4–1–21; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2020–0920; Project Identifier AD–2020–00662–R; Amendment 39–21462; AD 2021–05–19]

RIN 2120–AA64

Airworthiness Directives; Sikorsky Aircraft and Sikorsky Aircraft Corporation Helicopters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for Sikorsky Aircraft Model S–61L, S–61N, S–61NM, and S–61R helicopters and Sikorsky Aircraft Corporation Model S–61A, S–61D, S–61E, and S–61V restricted category helicopters. This AD was prompted by the manufacturer determining that there may be arm assemblies in service that have accumulated 15,000 or more hours time-in-service (TIS), which exceeds the service life limit for this component. This AD requires reviewing the mixer unit component log card or equivalent record and, depending on the number of hours TIS, calculating the remaining life of the arm assembly or removing the arm assembly from service. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective May 7, 2021.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of May 7, 2021.

ADDRESSES: For service information identified in this final rule, contact your local Sikorsky Field Representative or Sikorsky's Service Engineering Group at Sikorsky Aircraft Corporation, Mailstop K100, 124 Quarry Road, Trumbull, CT 06611; telephone 1–800–946–4337 (1–800-Winged-S); email *wcs_cust_service_eng.gr-sik@lmco.com.* Operators may also log on to the Sikorsky 360 website at *https://www.sikorsky360.com.* You may view this service information at the FAA, Office of the Regional Counsel, Southwest Region, 10101 Hillwood Pkwy., Room 6N–321, Fort Worth, TX 76177. For information on the availability of this material at the FAA, call (817) 222–5110. It is also available at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2020–0920.

Examining the AD Docket

You may examine the AD docket at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2020–0920; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, any comments received, and other information. The address for Docket Operations is U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Isabel L. Saltzman, Aerospace Engineer, Boston ACO Branch, FAA, 1200 District Avenue, Burlington, MA 01803; phone: (781) 238–7649; email: *Isabel.l.saltzman@faa.gov.*

SUPPLEMENTARY INFORMATION:

Background

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to Sikorsky Aircraft Model S–61L, S–61N, S–61NM, and S–61R helicopters and Sikorsky Aircraft Corporation Model S–61A, S–61D, S–61E, and S–61V restricted category helicopters, with an arm assembly part number S6140–62614–009, installed. The NPRM published in the **Federal Register** on October 26, 2020 (85 FR 67692). The FAA learned from Sikorsky Aircraft Corporation that Sikorsky S–61 Helicopter Alert Service Bulletin (ASB) 61B General-1, Revision No. Z, dated November 13, 2018, which is applicable to Sikorsky Model S–61L, S–61N, S–61NM, and S–61R helicopters, failed to include the life limit of the redesigned arm assembly. As a result, Sikorsky Aircraft Corporation determined that there may be arm assemblies in service with 15,000 or more hours TIS, which exceeds the service life limit for this component. In the NPRM, the FAA proposed to require reviewing the mixer unit component log card or equivalent record and, depending on the hours TIS of the arm assembly, calculating the remaining life of the arm assembly or removing the arm assembly from service. The proposed actions are intended to prevent an arm assembly from remaining in service beyond its life limit. This condition, if not addressed, could result in reduced or loss of tail rotor control and reduced control of the helicopter.

Discussion of Final Airworthiness Directive

Comments

The FAA received no comments on the NPRM or on the determination of the costs.

Conclusion

The FAA reviewed the relevant data and determined that air safety requires adopting this AD as proposed. Accordingly, the FAA is issuing this AD to address the unsafe condition on these products. Except for the minor editorial changes of updating the contact information to obtain service information identified in this final rule and updating the contact information for the FAA, this AD is adopted as proposed in the NPRM.

Related Service Information Under 1 CFR Part 51

The FAA reviewed Sikorsky S–61 Helicopter ASB 61B40–11, Basic Issue, dated March 2, 2020. This service information describes procedures for a one-time inspection of the mixer unit component log card to verify the arm assembly life limit and, if the life limit has been exceeded, to replace the arm assembly for Sikorsky Model S–61L, S–61N, and S–61NM helicopters.

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 **ADDRESSES**.

Other Related Service Information

The FAA also reviewed Sikorsky S–61 Helicopter ASB 61B General-1, Revision AA, dated February 24, 2020. This service information summarizes and lists parts with mandatory retirement times and inspections for Sikorsky Model S–61L, S–61N, and S–61NM helicopters.

Differences Between This AD and the Service Information

The ASB is effective only for Sikorsky Aircraft Model S–61L, S–61N, and S–61NM helicopters. In addition to these helicopters, the applicability of this AD also includes Sikorsky Aircraft Model S–61R helicopters and Sikorsky Aircraft Corporation Model S–61A, S–61D, S–61E, and S–61V restricted category helicopters. The FAA is expanding the applicability to prevent the installation of arm assemblies that have exceeded their life limits on helicopters with a similar type design as those helicopters affected by the ASB.

Costs of Compliance

The FAA estimates that this AD affects 13 helicopters of U.S. Registry. Labor rates are estimated at $85 per work-hour. Based on these numbers, the FAA estimates that operators may incur the following costs in order to comply with this AD.

Reviewing the mixer unit component log or equivalent record takes about 1 work-hour for an estimated cost of $85 per helicopter and $1,105 for the U.S. fleet. Adding the arm assembly entry and determine the remaining life takes about 1 work-hour for an estimated cost of $85 per helicopter and $1,105 for the U.S. fleet. Replacing the arm assembly takes about 9 work-hours and parts cost about $5,035, for an estimated cost of $5,800 per arm assembly.

According to the manufacturer, some of the costs of this AD may be covered under warranty, thereby reducing the cost impact on affected individuals. The FAA does not control warranty coverage by the manufacturer; accordingly, the FAA has included all costs in this 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

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

The Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2021–05–19 Sikorsky Aircraft and Sikorsky Aircraft Corporation: Amendment 39–21462; Docket No. FAA–2020–0920; Project Identifier AD–2020–00662–R.

(a) Effective Date

This airworthiness directive (AD) is effective May 7, 2021.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Sikorsky Aircraft Model S–61L, S–61N, S–61NM, and S–61R helicopters and Sikorsky Aircraft Corporation Model S–61A, S–61D, S–61E, and S–61V helicopters, certificated in any category including restricted, with an arm assembly part number S6140–62614–009, installed.

(d) Subject

Joint Aircraft System Component (JASC) Code 6720, Tail Rotor Control System.

(e) Unsafe Condition

This AD was prompted by the manufacturer determining that there may be arm assemblies in service with 15,000 or more hours time-in-service (TIS), which exceeds the life limit for this component. The FAA is issuing this AD to prevent reduced or loss of tail rotor control. This unsafe condition, if not addressed, could result in reduced control of the helicopter.

(f) Compliance

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

(g) Required Action

(1) Within 90 days after the effective date of this AD, review the mixer unit component log card or equivalent record to determine if the affected arm assembly is entered with the appropriate 15,000 hours TIS life limit.

(2) If the affected arm assembly is not included on the mixer unit component log card or equivalent record, within 90 days after the effective date of this AD, add the arm assembly entry to the mixer unit component log card or equivalent record and determine the remaining life of the arm assembly using the Accomplishment Instructions, Section 3.A.(3) of Sikorsky S–61 Helicopter Alert Service Bulletin (ASB) 61B40–11, Basic Issue, dated March 2, 2020 (the ASB).

(3) If, based on the review required by paragraphs (g)(1) and (2) of this AD, the arm assembly has accumulated 15,000 or more hours TIS, before further flight, remove the arm assembly from service. If the hours TIS for the affected arm assembly cannot be determined, before further flight, remove the affected arm assembly from service.

(4) For arm assemblies that have not accumulated 15,000 or more hours TIS, thereafter, continue to determine the remaining life of the arm assembly and remove the arm assembly from service before it accumulates 15,000 hours TIS.

(h) Credit for Previous Actions

You may take credit for adding the arm assembly entry to the mixer unit component log card or equivalent record and determining the remaining life of the arm assembly required by paragraphs (g)(1) and (2) of this AD if you performed these actions before the effective date of this AD using Sikorsky S–61 Helicopter ASB 61B General-1, Revision AA, dated February 24, 2020.

(i) Special Flight Permit

Special flight permits, as described in Section 21.197 and Section 21.199 of the Federal Aviation Regulations (14 CFR 21.197

and 21.199), are subject to the requirements of paragraph (g)(3) of this AD. Operators who are prohibited from further flight due to exceeding the life limit in paragraph (g)(3) of this AD, may only perform a maintenance check or a one-time ferry flight to a location where the affected arm assembly can be removed from service. This ferry flight must be performed with only essential flight crew.

(j) Alternative Methods of Compliance (AMOCs)

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

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

(k) Related Information

For more information about this AD, contact Isabel Saltzman, Aerospace Engineer, Boston ACO Branch, FAA, 1200 District Avenue, Burlington, MA 01803; phone: (781) 238–7649; email: *Isabel.l.saltzman@faa.gov.*

(l) Material Incorporated by Reference

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

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

(i) Sikorsky S–61 Helicopter Alert Service Bulletin 61B40–11, Basic Issue, dated March 2, 2020.

(ii) [Reserved]

(3) For service information identified in this AD, contact your local Sikorsky Field Representative or Sikorsky's Service Engineering Group at Sikorsky Aircraft Corporation, Mailstop K100, 124 Quarry Road, Trumbull, CT 06611; telephone 1–800–946–4337 (1–800–Winged–S); email *wcs_cust_service_eng.gr-sik@lmco.com.* Operators may also log on to the Sikorsky 360 website at *https://www.sikorsky360.com.*

(4) You may view this service information at the FAA, Office of the Regional Counsel, Southwest Region, 10101 Hillwood Pkwy., Room 6N–321, Fort Worth, TX 76177. For information on the availability of this material at the FAA, call (817) 222–5110.

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

Issued on March 1, 2021.

Ross Landes,

Deputy Director for Regulatory Operations, Compliance & Airworthiness Division, Aircraft Certification Service.

[FR Doc. 2021–06779 Filed 4–1–21; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2020–0912; Product Identifier 2015–SW–071–AD; Amendment 39–21492; AD 2021–07–15]

RIN 2120–AA64

Airworthiness Directives; Airbus Helicopters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The FAA is superseding Airworthiness Directive (AD) 82–20–05 for Societe Nationale Industrielle Aerospatiale (now Airbus Helicopters) Model AS–350 and AS–355 series helicopters. AD 82–20–05 required inspecting and establishing a life limit for the tail rotor (TR) drive shaft bearing (bearing). This new AD requires replacing certain part-numbered TR bearings with one part-numbered bearing and repetitively inspecting one part-numbered bearing. This AD was prompted by inconsistencies that have been identified between inspections and maintenance actions required by ADs and inspections and maintenance actions specified in the applicable maintenance manual. The actions of this AD are intended to address an unsafe condition on these products.

DATES: This AD is effective May 7, 2021.

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

Examining the AD Docket

You may examine the AD docket on the internet at *https://www.regulations.gov* in Docket No. FAA–2020–0912; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this AD, the European Aviation Safety Agency (now European Union Aviation Safety Agency) (EASA) AD, any comments received, and other information. The street address for Docket Operations is U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Bang Nguyen, Aerospace Engineer, Structures Certification Section, Fort Worth ACO Branch, FAA, 10101 Hillwood Pkwy., Fort Worth, TX 76177; telephone 817–222–5110; email *bang.nguyen@faa.gov.*

SUPPLEMENTARY INFORMATION:

Discussion

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to remove AD 82–20–05, Amendment 39–4466 (47 FR 43018, September 30, 1982) (AD 82–20–05), and add a new AD. AD 82–20–05 applied to Societe Nationale Industrielle Aerospatiale (now Airbus Helicopters) Model AS–350 and AS–355 series helicopters. The NPRM published in the **Federal Register** on October 14, 2020 (85 FR 64995) and proposed to apply to Airbus Helicopters Model AS350B, AS350B1, AS350B2, AS350B3, AS350BA, AS350C, AS350D, AS350D1, AS355E, AS355F, AS355F1, AS355F2, AS355N, and AS355NP helicopters with a bearing part number (P/N) 593404, 6007–2RS1MT47CA, P9107NPP7, 83A851BC3, or 83A851B–1C3, or manufacturer part number (MP/N) 704A33–651–010, 704A33–651–111, 704A33–651–143, or 704A33–651–181 installed. The NPRM proposed to require, within 100 hours time-in-service (TIS), and thereafter at intervals not to exceed 165 hours TIS, for helicopters with certain part-numbered bearings installed, inspecting each bearing holder damper bushing for wear, a crack, tears, and play between each bushing and support plate; each bearing holder for a crack, fretting, and corrosion around the attachment holes; and each rubber sleeve for rotation, crazing, play between the inner races and the rubber sleeve, and lack of integrity of the elastomer. Depending on the inspection results, the NRPM proposed to require removing certain parts from service. The NPRM also proposed to require making a mark with white paint on the rubber sleeves and on the shaft within 100 hours TIS. For helicopters with bearing P/N 6007–2RS1MT47CA, P9107NPP7,

83A851BC3, or 83A851B–1C3, or MP/N 704A33–651–010, 704A33–651–111, or 704A33–651–143 installed, the NPRM proposed to require removing those part numbered bearings from service and installing bearing P/N 593404 or MP/N 704A33–651–181. The NPRM also proposed to prohibit installing certain bearings on any helicopter.

The NPRM was prompted by EASA AD 2015–0195, dated September 23, 2015 (EASA AD 2015–0195), issued by EASA, which is the Technical Agent for the Member States of the European Union, to correct an unsafe condition for Airbus Helicopters Model AS 350 B, BA, BB, B1, B2, B3, and D, and AS 355 E, F, F1, F2, N, and NP helicopters with certain part numbered bearings installed. EASA advises that after inconsistencies were identified between inspections and maintenance actions required by French Civil Aviation Authority ADs and EASA ADs, Airbus Helicopters issued service information to specify replacing four different part numbered bearings with one bearing P/N 593404 (also listed as MP/N 704A33–651–181) and to provide inspection procedures for the new bearing. Accordingly, EASA AD 2015–0195 retains the inspections for the older design bearings, requires replacing the bearings with the new bearings, and requires repetitive inspections for the new bearings.

Comments

After the NPRM was published, the FAA received comments from two commenters.

Request

Both commenters stated that the recurring 165 hour TIS inspections for TR bearing P/N 593404 and MP/N 704A33–651–181 are already captured in the FAA-approved manufacturer Airworthiness Limitations Schedule (ALS) as a 150 hour recurring inspection, and should not be part of this AD. One of the commenters added that the AD's recurring inspection would create a double sign-off and more paperwork.

The FAA disagrees. Operators may not have to follow the version of the ALS referred to by the commenters because operators might be following an older or newer version depending on the delivery date of the helicopter. Additionally, the repetitive inspections required by this AD must be accomplished at intervals not to exceed 165 hours TIS; if operators accomplish these inspections every 150 hours TIS as stated in the ALS, they are meeting the AD's required compliance time.

FAA's Determination

These helicopters have been approved by EASA and are approved for operation in the United States. Pursuant to the FAA's bilateral agreement with the European Union, EASA has notified the FAA of the unsafe condition described in its AD. The FAA is issuing this AD after evaluating all of the information provided by EASA and determining the unsafe condition exists and is likely to exist or develop on other helicopters of these same type designs and that air safety and the public interest require adopting the AD requirements as proposed.

Differences Between This AD and the EASA AD

The EASA AD requires replacing the older design bearings within 10 months, while this AD requires replacing the bearings within 100 hours TIS instead. The EASA AD applies to Model AS350BB helicopters, whereas this AD does not as this model helicopter is not FAA type-certificated. Finally, this AD applies to Model AS350C and AS350D1 helicopters as they have the same bearings installed, and the EASA AD does not.

Related Service Information

The FAA reviewed Airbus Helicopters Alert Service Bulletin (ASB) No. AS355–01.00.57, Revision 2, dated January 19, 2016, for Model AS355 helicopters, and ASB AS350–01.00.70, Revision 1, dated September 21, 2015, for Model AS350 helicopters. This service information describes procedures for inspecting bearing P/N 593404 and MP/N 704A33–651–181 for position, condition, and wear. This service information also advises customers that older designed bearings are not fit for flight, and specifies replacing the older designed bearings with new bearing P/N 593404 or MP/N 704A33–651–181. This service information also references procedures for repetitively inspecting the newer bearings.

Costs of Compliance

The FAA estimates that this AD will affect 915 helicopters of U.S. Registry. Labor rates are estimated at $85 per work hour. Based on these numbers, the FAA estimates that operators may incur the following costs in order to comply with this AD.

For Model AS350 B, BA, B1, B2, B3, and C helicopters, inspecting the bearings takes about 2.5 work hours, for an estimated cost of $213 per helicopter per inspection cycle. Replacing each bearing with a single part numbered bearing takes about 2.5 work hours and parts cost about $1,225, for an estimated cost of $1,438 per helicopter.

For Model AS350 D, D1, and AS355-series helicopters, inspecting the bearings takes about 3 work hours, for an estimated cost of $255 per helicopter per inspection cycle. Replacing each bearing with a single part numbered bearing takes about 3 work hours and parts cost about $1,470, for an estimated cost of $1,725 per helicopter.

Making a mark with white paint on the rubber sleeves and shaft takes a minimal amount of time and has a nominal parts cost.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by:
■ a. Removing Airworthiness Directive (AD) 82–20–05, Amendment 39–4466 (47 FR 43018, September 30, 1982); and
■ b. Adding the following new AD:

2021–07–15 Airbus Helicopters: Amendment 39–21492; Docket No. FAA–2020–0912; Product Identifier 2015–SW–071–AD.

(a) Applicability

This airworthiness directive (AD) applies to Airbus Helicopters Model AS350B, AS350B1, AS350B2, AS350B3, AS350BA, AS350C, AS350D, AS350D1, AS355E, AS355F, AS355F1, AS355F2, AS355N, and AS355NP helicopters, certificated in any category, with a tail rotor (TR) drive shaft bearing (bearing) part number (P/N) 593404, 6007–2RS1MT47CA, P9107NPP7, 83A851BC3, or 83A851B–1C3, or manufacturer part number (MP/N) 704A33–651–010, 704A33–651–111, 704A33–651–143, or 704A33–651–181, installed.

(b) Unsafe Condition

This AD defines the unsafe condition as failure or seizure of a TR bearing, which if not corrected could result in loss of the TR drive and subsequent loss of control of the helicopter.

(c) Affected ADs

This AD replaces AD 82–20–05, Amendment 39–4466 (47 FR 43018, September 30, 1982).

(d) Effective Date

This AD becomes effective May 7, 2021.

(e) Compliance

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

(f) Required Actions

(1) For helicopters with TR bearing P/N 593404 or MP/N 704A33–651–181 installed, within 100 hours time-in-service (TIS) and thereafter at intervals not to exceed 165 hours TIS:

(i) Inspect each bearing holder damper bushing for wear, a crack, tears, and play between each bushing and support plate. If there is any wear, a crack, tears, or play between the bushing and support plate, remove the bearing holder damper bushing from service.

(ii) Inspect each bearing holder for a crack, fretting, and corrosion around the attachment holes. If there is a crack, fretting, or corrosion, remove the bearing holder from service.

(iii) Inspect each rubber sleeve for rotation, crazing, play between the inner races and the rubber sleeve, and lack of integrity of the elastomer. For the purposes of this inspection, lack of integrity may be indicated by brittle or cracked rubber. If there is any rotation, crazing, play between the inner races and the rubber sleeve, or lack of integrity of the elastomer, remove the rubber sleeve from service.

(2) Within 100 hours TIS:

(i) Make a mark with white paint on the rubber sleeves and on the shaft.

(ii) For helicopters with TR shaft bearing P/N 6007–2RS1MT47CA, P9107NPP7, 83A851BC3, or 83A851B–1C3, or MP/N 704A33–651–010, 704A33–651–111, or 704A33–651–143 installed, remove the affected bearings from service and replace with bearing P/N 593404 or MP/N 704A33–651–181.

(3) After the effective date of this AD, do not install bearing P/N 6007–2RS1MT47CA, P9107NPP7, 83A851BC3, or 83A851B–1C3, or MP/N 704A33–651–010, 704A33–651–111, or 704A33–651–143 on any helicopter.

(g) Alternative Methods of Compliance (AMOCs)

(1) The Manager, 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 manager of the International Validation Branch, send it to the attention of: Bang Nguyen, Aerospace Engineer, Structures Certification Section, Fort Worth ACO Branch, FAA, 10101 Hillwood Pkwy., Fort Worth, TX 76177; telephone 817–222–5110; Information may be emailed to: *9-AVS-AIR-730-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.

(h) Additional Information

(1) Airbus Helicopters Alert Service Bulletin (ASB) No. AS355–01.00.57, Revision 2, dated January 19, 2016, and Airbus Helicopter ASB No. AS350–01.00.70, Revision 1, dated September 21, 2015, which are not incorporated by reference, contain additional information about the subject of this AD. For service information identified in this AD, contact Airbus Helicopters, 2701 N Forum Drive, Grand Prairie, TX 75052; telephone 972–641–0000 or 800–232–0323; fax 972–641–3775; or at *https://www.airbus.com/helicopters/services/technical-support.html.* You may view a copy of the service information at the FAA, Office of the Regional Counsel, Southwest Region, 10101 Hillwood Pkwy., Room 6N–321, Fort Worth, TX 76177.

(2) The subject of this AD is addressed in European Aviation Safety Agency (now European Union Aviation Safety Agency) (EASA) AD 2015–0195, dated September 23, 2015. You may view the EASA AD on the internet at *https://www.regulations.gov* in Docket FAA–2020–0912.

(i) Subject

Joint Aircraft Service Component (JASC) Code: 6510, Tail Rotor Drive Shaft.

Issued on March 25, 2021.

Gaetano A. Sciortino,

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

[FR Doc. 2021–06783 Filed 4–1–21; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2020–0901; Project Identifier AD–2020–00705–E; Amendment 39–21459; AD 2021–05–16]

RIN 2120–AA64

Airworthiness Directives; Pratt & Whitney Division Turbofan Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for certain Pratt & Whitney Division (PW) PW4164, PW4164–1D, PW4168, PW4168–1D, PW4168A, PW4168A–1D, and PW4170 model turbofan engines. This AD was prompted by several reports of low-pressure turbine (LPT) 4th-stage vane cluster assemblies leaning back and notching into the rotating LPT 4th-stage blades, causing some blades to fracture and release. This AD requires initial and repetitive replacements of the LPT 4th-stage air sealing ring segment assemblies with parts eligible for installation. This AD also requires initial and repetitive dimensional inspections of the LPT case for bulging and, depending on the results of the dimensional inspections, repair or replacement of the LPT case. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective May 7, 2021.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of May 7, 2021.

ADDRESSES: For service information identified in this final rule, contact Pratt & Whitney, 400 Main Street, East Hartford, CT 06118; phone: (800) 565–0140; email: *help24@prattwhitney.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. It is also available at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2020–0901.

Examining the AD Docket

You may examine the AD docket at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2020–0901; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, any comments received, and other information. The address for Docket Operations is U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT:

Carol Nguyen, Aviation Safety Engineer, ECO Branch, FAA, 1200 District Avenue, Burlington, MA 01803; phone: (781) 238–7655; fax: (781) 238–7199; email: *carol.nguyen@faa.gov*.

SUPPLEMENTARY INFORMATION:

Background

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to certain PW PW4164, PW4164–1D, PW4168, PW4168–1D, PW4168A, PW4168A–1D, and PW4170 model turbofan engines. The NPRM published in the **Federal Register** on October 1, 2020 (85 FR 61886). The NPRM was prompted by six reports from the manufacturer concerning LPT 4th-stage vane cluster assemblies leaning back and notching into rotating LPT 4th-stage blades, causing some blades to fracture and release. These incidents resulted in an aborted takeoff, air turnbacks, engine surges, high vibrations, and unplanned engine removals. The incidents were attributed to the LPT 4th-stage air sealing ring segment assemblies moving into the LPT 4th-stage blades knife edge seals, resulting in damage to the ring segment assemblies. In the NPRM, the FAA proposed to require initial and repetitive replacements of the LPT 4th-stage air sealing ring segment assemblies with parts eligible for installation. The FAA also proposed in the NPRM to require initial and repetitive dimensional inspections of the LPT case for bulging and, depending on the results of the dimensional inspection, repair or replacement of the LPT case. The FAA is issuing this AD to address the unsafe condition on these products.

Discussion of Final Airworthiness Directive Comments

The FAA received comments from two commenters. The commenters were Air Line Pilots Association (ALPA) and Delta Air Lines, Inc. (Delta). ALPA supported the proposal without change. Delta supported the proposal but recommended certain changes. The following presents the comments received on the NPRM and the FAA's response to each comment.

Request to the Revise Required Actions

Delta requested that the FAA revise paragraph (g)(5) of this AD to specify that any currently approved manual repairs are acceptable to return an LPT case to service. Delta stated that if Pratt & Whitney were to add additional repairs for Index 20 or Index 27 to the CIR Manual, it is unclear whether operators would be permitted to repair the LPT case per the latest manual revision or would be restricted to those manual revisions currently listed in Table 1 of Pratt & Whitney Alert Service Bulletin (ASB) PW4G–100–A72–262 Revision No. 1, dated September 3, 2020.

The FAA disagrees with revising paragraph (g)(5) of this AD since this paragraph does not require use of a specific repair. Operators may use any approved repair to return the LPT case to a serviceable condition. The FAA did not change this AD.

Request to the Revise a Definition

Delta requested that the FAA revise paragraph (h)(1) of this AD to restrict the definition of ''engine shop visit'' to only those visits in which flanges H through P are separated. Delta reasoned that while the ASB clarifies that flanges H through P, as identified in the PW4168 Engine Manual, Chapter/Section 72–00–00 Engine General, Description/Operation-01, Figure 6, constitute ''major mating engine flanges,'' the proposed rule would require teardown of the LPT module in instances when one of the flanges forward of flange H was separated to perform minor repairs on the cold section of the engine.

The FAA agrees and has revised paragraph (h)(1) of this AD to define ''an engine shop visit'' as the induction of an engine into the shop for maintenance involving the separation of pairs of major mating engine flanges H through P.

Conclusion

The FAA reviewed the relevant data, considered any comments received, and determined that air safety requires adopting this AD as proposed. Accordingly, the FAA is issuing this AD to address the unsafe condition on these products. Except for minor editorial changes, and any other changes described previously, this AD is adopted as proposed in the NPRM. None of the changes will increase the economic burden on any operator.

Related Service Information Under 1 CFR Part 51

The FAA reviewed Pratt & Whitney ASB No. PW4G–100–A72–262, Revision No. 1, dated September 3, 2020. The ASB describes procedures for replacing the LPT 4th-stage air sealing ring segment assemblies and inspecting the LPT case for bulging. 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 **ADDRESSES**.

Costs of Compliance

The FAA estimates that this AD affects 99 engines installed on airplanes of U.S. registry.

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

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Inspect the LPT case for bulging	2 work-hours × $85 per hour = $170	$0	$170	$16,830
Replace the LPT 4th-stage air sealing ring segment assemblies.	50 work-hours × $85 per hour = $4,250	64,592	68,842	6,815,358

The FAA estimates the following costs to do any necessary repair or replacement that would be required based on the results of the inspection. The agency has no way of determining

the number of engines that might need these repairs or replacements.

ON-CONDITION COSTS

Action	Labor cost	Parts cost	Cost per product
Repair LPT case to restore dimensions	250 work-hours × $85 per hour = $21,250	$0	$21,250
Replace the LPT case	0 work-hours × $85 per hour = $0	1,300,000	1,300,000

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

The Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2021–05–16 Pratt & Whitney Division: Amendment 39–21459; Docket No. FAA–2020–0901; Project Identifier AD–2020–00705–E.

(a) Effective Date

This airworthiness directive (AD) is effective May 7, 2021.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Pratt & Whitney Division (PW) PW4164, PW4164–1D, PW4168, PW4168–1D, PW4168A, PW4168A–1D, and PW4170 model turbofan engines with low-pressure turbine (LPT) 4th-stage air sealing ring segment assemblies, part number (P/N) 50N463–01 or P/N 50N526–01, installed.

(d) Subject

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

(e) Unsafe Condition

This AD was prompted by several reports from the manufacturer concerning LPT 4th-stage vane cluster assemblies leaning back and notching into the rotating LPT 4th-stage blades, causing some blades to fracture and release. A manufacturer investigation into those reports determined that the leaning back of the LPT 4th-stage vane cluster assemblies was caused by damage to the LPT 4th-stage air sealing ring segment assemblies. The FAA is issuing this AD to prevent damage to the LPT 4th-stage air sealing ring segment assemblies, the LPT case, and the LPT 4th-stage blades. The unsafe condition, if not addressed, could result in uncontained release of the LPT 4th-stage blades, 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) For affected engines that have either the Talon IIA outer combustion chamber assembly, part number (P/N) 51J100 or P/N 51J382, or the Talon IIB outer combustion chamber assembly, P/N 51J381 or P/N 51J500, installed, at the next engine shop visit after the effective date of this AD, remove from service the LPT 4th-stage air sealing ring segment assemblies, P/N 50N463–01 or P/N 50N526–01, and replace with parts eligible for installation.

(2) For affected engines not referenced in paragraph (g)(1) of this AD, at the next LPT overhaul after the effective date of this AD, remove from service the LPT 4th-stage air sealing ring segment assemblies, P/N 50N463–01 or P/N 50N526–01, and replace with parts eligible for installation.

(3) For all affected engines, at each LPT overhaul after compliance with the required actions in paragraphs (g)(1) or (2) of this AD, remove from service the LPT 4th-stage air sealing ring segment assemblies, P/N 50N526–01, and replace with parts eligible for installation.

(4) During each replacement of the LPT 4th-stage air sealing ring segment assemblies required by paragraphs (g)(1), (2), and (3) of this AD, perform a dimensional inspection of the LPT case for bulging in accordance with the Accomplishment Instructions, paragraph 2, of PW ASB PW4G–100–A72–262 Revision No. 1, dated September 3, 2020 (the ASB).

(5) If, during the dimensional inspection of the LPT case required by paragraph (g)(4) of this AD, any LPT case found to be outside the serviceable limits specified in Table 1: Serviceable Limits and Repairs of the ASB, repair or replace the LPT case before further flight.

(h) Definitions

For the purpose of this AD:

(1) An ''engine shop visit'' is the induction of an engine into the shop for maintenance involving the separation of pairs of major mating engine flanges H through P. The separation of engine flanges solely for the purpose of transportation without subsequent engine maintenance does not constitute an engine shop visit.

(2) An ''LPT overhaul'' is when the LPT rotor is removed from the engine, all four disks are removed from the LPT rotor, and all blades are removed from the disks.

(3) ''Parts eligible for installation'' are LPT 4th-stage air sealing ring segment assemblies, P/N 50N526–01, with zero flight cycles since new or with a P/N not mentioned in this AD.

(i) Alternative Methods of Compliance (AMOCs)

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

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

(j) Related Information

For more information about this AD, contact Carol Nguyen, Aviation Safety Engineer, ECO Branch, FAA, 1200 District Avenue, Burlington, MA 01803; phone: (781) 238–7655; fax: (781) 238–7199; email: *carol.nguyen@faa.gov.*

(k) Material Incorporated by Reference

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

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

(i) Pratt & Whitney Alert Service Bulletin No. PW4G–100–A72–262, Revision No. 1, dated September 3, 2020.

(ii) [Reserved].

(3) For Pratt & Whitney service information identified in this AD, contact Pratt & Whitney, 400 Main Street, East Hartford, CT 06118; phone: (800) 565–0140; email: *help24@prattwhitney.com;* website: *http://fleetcare.pw.utc.com.*

(4) You may view this service information at 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.

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

Issued on March 10, 2021.

Lance T. Gant,

Director, Compliance & Airworthiness Division, Aircraft Certification Service.

[FR Doc. 2021–06804 Filed 4–1–21; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2020–0909; Project Identifier 2019–SW–118–AD; Amendment 39–21458; AD 2021–05–15]

RIN 2120–AA64

Airworthiness Directives; Airbus Helicopters

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

ACTION: Final rule.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for certain Airbus Helicopters Model AS332C, AS332C1, AS332L, and AS332L1 helicopters. This AD was prompted by a report that the cabin lateral sliding plug door failed its emergency jettisoning test; subsequent investigation revealed that the jettison handle cable interfered with the cable clamps. This AD requires modifying the release system of each cabin lateral sliding plug door, or modifying the design of the jettison system of each cabin lateral sliding plug door, as specified in a European Union Aviation Safety Agency (EASA) AD, which is incorporated by reference. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective May 7, 2021.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of May 7, 2021.

ADDRESSES: For material incorporated by reference (IBR) in this AD, contact the EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; telephone +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, Office of the Regional Counsel, Southwest Region, 10101 Hillwood Pkwy., Room 6N–321, Fort Worth, TX 76177. For information on the availability of this material at the FAA, call 817–222–5110. It is also available in the AD docket on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2020–0909.

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–2020–0909; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, any comments received, and other information. The street address for Docket Operations is U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Kathleen Arrigotti, Aviation Safety Engineer, Large Aircraft Section, International Validation Branch, FAA, 2200 South 216th St., Des Moines, WA 98198; telephone and fax 206–231–3218; email *kathleen.arrigotti@faa.gov.*

SUPPLEMENTARY INFORMATION:

Discussion

The EASA, which is the Technical Agent for the Member States of the European Union, has issued EASA AD 2019–0064R1, dated December 19, 2019 (EASA AD 2019–0064R1) (also referred to as the Mandatory Continuing Airworthiness Information, or the MCAI), to correct an unsafe condition for certain Airbus Helicopters Model AS332C, AS332C1, AS332L, and AS332L1 helicopters.

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to certain Airbus Helicopters Model AS332C, AS332C1, AS332L, and AS332L1 helicopters. The NPRM published in the **Federal Register** on October 7, 2020 (85 FR 63238). The NPRM was prompted by a report that the cabin lateral sliding plug door failed its emergency jettisoning test; subsequent investigation revealed that the jettison handle cable interfered with the cable clamps. The NPRM proposed to require modifying the release system of each cabin lateral sliding plug door, or modifying the design of the jettison system of each cabin lateral sliding plug door, as specified in EASA AD 2019–0064R1, which is incorporated by reference.

The FAA is issuing this AD to address this condition, which could lead to jamming of the door jettisoning mechanism, preventing the jettisoning of the affected door in an emergency situation, and possibly obstructing occupant evacuation. See the MCAI for additional background information.

Comments

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

Conclusion

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

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

Related IBR Material Under 1 CFR Part 51

EASA AD 2019–0064R1 describes, among other things, procedures for modifying the release system of each cabin lateral sliding plug door, or modifying the design of the jettison system of each cabin lateral sliding plug door.

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.

Differences Between This AD and the MCAI

EASA AD 2019–0064R1 specifies inspections of the jettisoning mechanism of the cabin lateral sliding plug doors and corrective actions. This AD does not include those actions. AD 2019–09–03, Amendment 39–19637 (84 FR 22693, May 20, 2019) (AD 2019–09–03) already requires those actions. The FAA has determined that this AD will only require the modification specified in EASA AD 2019–0064R1, which would then terminate the requirements of AD 2019–09–03.

Costs of Compliance

The FAA estimates that this AD affects 19 helicopters of U.S. registry. The FAA estimates the following costs to comply with this AD:

ESTIMATED COSTS FOR REQUIRED ACTIONS

Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Up to 214 work-hours × $85 per hour = Up to $18,190	$*	Up to $18,190	Up to $345,610.

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

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2021–05–15 Airbus Helicopters: Amendment 39–21458; Docket No. FAA–2020–0909; Project Identifier 2019–SW–118–AD.

(a) Effective Date

This airworthiness directive (AD) is effective May 7, 2021.

(b) Affected ADs

This AD affects AD 2019–09–03, Amendment 39–19637 (84 FR 22693, May 20, 2019) (AD 2019–09–03).

(c) Applicability

This AD applies to Airbus Helicopters Model AS332C, AS332C1, AS332L, and AS332L1 helicopters, certificated in any category, as identified in European Union Aviation Safety Agency (EASA) AD 2019–0064R1, dated December 19, 2019 (EASA AD 2019–0064R1).

(d) Subject

Joint Aircraft System Component (JASC) Code 5200, Doors.

(e) Reason

This AD was prompted by a report that the cabin lateral sliding plug door failed its emergency jettisoning test; subsequent investigation revealed that the jettison handle cable interfered with the cable clamps. The FAA is issuing this AD to address this condition, which could lead to jamming of the door jettisoning mechanism, preventing the jettisoning of the affected door in an emergency situation, and possibly obstructing occupant 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, paragraph (3) or (4) of EASA AD 2019–0064R1.

(h) Exceptions to EASA AD 2019–0064R1

(1) Where EASA AD 2019–0064R1 refers to April 10, 2019 (the effective date of EASA AD 2019–0064, dated March 27, 2019), this AD requires using the effective date of this AD.

(2) The ''Remarks'' section of EASA AD 2019–0064R1 does not apply to this AD.

(3) If the modification specified in paragraph (4) of EASA AD 2019–0064R1 is done, it must be done at the compliance time specified in paragraph (3) of EASA AD 2019–0064R1.

(4) Although the service information referenced in EASA AD 2019–0064R1 specifies to discard or scrap certain parts, this AD does not include that requirement.

(5) Where paragraph (3) of EASA AD 2019–0064R1 specifies to do a modification ''in accordance with the instructions of section 3 of the modification ASB'' this AD excludes paragraph 3.B.5. of ''the modification ASB.''

(6) Where paragraph (4) of EASA AD 2019–0064R1 refers to ''Eurocopter AS 322 SB No. 52.00.28,'' for this AD use ''Eurocopter AS 332 SB No. 52.00.28.''

(i) Terminating Action for AD 2019–09–03

Accomplishing the actions required by this AD terminates all requirements of AD 2019–09–03.

(j) Alternative Methods of Compliance (AMOCs)

(1) The Manager, 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 International Validation Branch, send it to the attention of the person identified in paragraph (k) of this AD. Information may be emailed to: *9-AVS-AIR-730-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.

(k) Related Information

For more information about this AD, contact Kathleen Arrigotti, Aviation Safety Engineer, Large Aircraft Section, International Validation Branch, FAA, 2200 South 216th St., Des Moines, WA 98198; telephone and fax 206–231–3218; email *kathleen.arrigotti@faa.gov.*

(l) Material Incorporated by Reference

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

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

(i) European Union Aviation Safety Agency (EASA) AD 2019–0064R1, dated December 19, 2019.

(ii) [Reserved]

(3) For EASA AD 2019–0064R1, contact the EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; telephone +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.*

(4) You may view this service information at the FAA, Office of the Regional Counsel, Southwest Region, 10101 Hillwood Pkwy., Room 6N–321, Fort Worth, TX 76177. For information on the availability of this material at the FAA, call 817–222–5110. 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–2020–0909.

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

Issued on February 25, 2021.

Gaetano A. Sciortino,

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

[FR Doc. 2021–06780 Filed 4–1–21; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

14 CFR Parts 302 and 399

49 CFR Parts 1, 5, and 7

Pipeline and Hazardous Materials Safety Administration

49 CFR Part 106

Federal Motor Carrier Safety Administration

49 CFR Part 389

National Highway Traffic Safety Administration

49 CFR Part 553

Federal Transit Administation

49 CFR Part 601

RIN 2105–AF00

Administrative Rulemaking, Guidance, and Enforcement Procedures

AGENCY: Office of the Secretary of Transportation (OST), Pipeline and Hazardous Materials Administration, Federal Motor Carrier Safety Administration, National Highway Traffic Safety Administration, and Federal Transit Administation, U.S. Department of Transportation (DOT).

ACTION: Final rule.

SUMMARY: This final rule removes the Department's internal policies and procedures relating to the issuance of rulemaking and guidance documents from the Code of Federal Regulations. In addition, this final rule removes regulations concerning the initiation and conduct of enforcement actions, including administrative enforcement proceedings and judicial enforcement actions brought in Federal court.

DATES: Effective on May 3, 2021.

FOR FURTHER INFORMATION CONTACT: Jill Laptosky, Office of Regulation, Office of the General Counsel, 202–493–0308, *Jill.Laptosky@dot.gov.*

SUPPLEMENTARY INFORMATION: The Department is issuing this final rule in response to two recently issued Executive orders. Executive Order (E.O.) 13992, ''Revocation of Certain Executive Orders Concerning Federal Regulation'' (January 20, 2021), revokes several executive orders that directed action by the Federal Government in the context of rulemaking, guidance, and regulatory enforcement. It also directs the Director of the Office of Management and Budget and heads of agencies to promptly take steps to rescind any orders, rules, regulations, guidelines, or policies, or portions thereof, implementing or enforcing any of the revoked orders, as appropriate and consistent with applicable law. E.O. 13990, ''Protecting Public Health and the Environment and Restoring Science To Tackle the Climate Crisis'' (January 20, 2021), directs all executive departments and agencies to review immediately and, as appropriate and consistent with applicable law, take action to address the promulgation of Federal regulations and other actions that conflict with the objectives stated in E.O. 13990.

On December 27, 2019, the Department published a final rule, ''Administrative Rulemaking, Guidance, and Enforcement Procedures'' (84 FR 71714), that codified at 49 CFR part 5 the Department's internal procedures relating to the review and clearance of rulemaking and guidance documents, as well as the initiation and conduct of enforcement actions. In accordance with 49 CFR 5.21, ''Policy updates and revisions,'' the Department has reviewed the amendments made to 49 CFR part 5 by that final rule to determine whether any revisions are necessary in light of E.O. 13992 and E.O. 13990.

Many of the policies and procedures codified at 49 CFR part 5 were prompted by Executive orders that have since been revoked by E.O. 13992.[1] As

[1] For purposes of this rulemaking, the relevant revoked executives orders include the following: E.O. 13771 of January 30, 2017 (Reducing Regulation and Controlling Regulatory Costs), E.O. 13777 of February 24, 2017 (Enforcing the Regulatory Reform Agenda), E.O. 13891 of October 9, 2019 (Promoting the Rule of Law Through Improved Agency Guidance Documents), and E.O. 13892 of October 9, 2019 (Promoting the Rule of

a result, the Department will rescind those policies and procedures, or portions thereof, that implemented or enforced any of the revoked orders. This final rule removes from 49 CFR part 5 those provisions that reflect revoked policies and procedures that are no longer in effect.

With respect to the provisions of 49 CFR part 5 that are not directly attributable to now-revoked executive orders, the Department has determined to rescind many of the other regulations promulgated on December 27, 2019, concerning rulemaking, guidance documents, and enforcement actions for four primary reasons. First, the Department has found that a majority of the provisions contained in 49 CFR part 5 not directly attributable to the now-revoked executive orders solely apply to the Department's internal operations and thus need not be codified in the Code of Federal Regulations. Second, the regulations found in 49 CFR part 5 are duplicative of existing procedures contained in internal departmental procedural directives.[2] Because these procedures are already contained in existing internal procedures, it is not necessary that they also be published in the Code of Federal Regulations in order for them to be effective. Third, with regard to the regulations on enforcement matters, many of these provisions are derived from the Administrative Procedure Act (APA) and significant judicial decisions and thus need not be adopted by regulation in order to be effective. Application of the APA and these decisions to enforcement matters can be accomplished by internal directives as the Department deems necessary and appropriate. Therefore, 49 CFR part 5, subpart D—Enforcement Procedures is rescinded in its entirety. Fourth, removing these provisions from 49 CFR part 5 ensures that the Department is able to effectively and efficiently promulgate new Federal regulations and other actions to support the objectives stated in E.O. 13990.

The Code of Federal Regulations will continue to include those provisions that impact the public's ability to interact with the Department on rulemaking matters and activities. For example, the Department will maintain in 49 CFR part 5 procedures for the public to petition for rulemakings and exemptions. In addition to rulemakings and exemptions, the Department's procedures, as amended in 2019, explicitly provided for the public to petition for retrospective reviews of existing rules and the modification or rescission of guidance documents. While the Department is revising its petition procedures to remove references to retrospective reviews and guidance document petitions, the Department will nevertheless accept and process these types of petitions. The revised petition procedures thus define ''rule'' expansively, consistent with the APA, to ensure that the Department will continue to consider a broad range of requests from the public regarding our regulatory programs.

E.O. 13992 also directs agencies to take prompt action to rescind any rules or regulations, or portions thereof, implementing revoked Executive orders, as appropriate and consistent with applicable law, that threaten to frustrate the Federal Government's ability to confront urgent challenges facing the Nation, including the coronavirus disease 2019 pandemic, economic recovery, racial justice, and climate change. The Department is reviewing its internal procedures (*e.g.,* DOT Order 2100.6) and will revise them accordingly. As a result, departmental internal procedures will be updated to reflect the call of E.O. 13992 to revoke those procedures that reflect outdated policy that could hamstring the Department's ability to respond quickly and effectively to the challenges facing our Nation.

This final rule also makes a number of conforming edits to the regulations of its subcomponent operating administrations to ensure that they are updated properly to reflect the repeal of certain provisions of 49 CFR part 5.

Administrative Procedure Act

Under the Administrative Procedure Act, the normal notice and comment procedures do not apply to an action that is a rule of agency organization, procedure, or practice. See 5 U.S.C. 553(b)(A). Since this final rule revises only internal processes applicable to the Department's administrative procedures, this is a rule of agency procedure for which notice and comment are not required.

Rulemaking Analyses and Notices

A. E.O. 12866 and DOT Regulatory Policies and Procedures

This rulemaking is not a significant regulatory action under Executive Order 12866. The Department does not anticipate that this rulemaking will have an economic impact on regulated entities. This is a rule of agency procedure and practice that does not change the Department's procedures in and of itself. This action merely removes duplicative regulations from the Code of Federal Regulations that would be better managed in departmental operating procedures.

B. Regulatory Flexibility Act

Since notice and comment rulemaking is not necessary for this rule, the analytical provisions of the Regulatory Flexibility Act (Pub. L. 96–354, 5 U.S.C. 601–612) do not apply.

C. Executive Order 13132 (Federalism)

Executive Order 13132 requires agencies to ensure meaningful and timely input by State and local officials in the development of regulatory policies that may 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. This action has been analyzed in accordance with the principles and criteria contained in Executive Order 13132 (August 4, 1999), and DOT has determined that this action will not have a substantial direct effect or federalism implications on the States and would not preempt any State law or regulation or affect the States' ability to discharge traditional State governmental functions. Therefore, consultation with the States is not necessary.

D. Executive Order 13175 (Tribal Consultation)

This final rule has been analyzed in accordance with the principles and criteria contained in Executive Order 13175, ''Consultation and Coordination with Indian Tribal Governments.'' Because this rulemaking does not significantly or uniquely affect the communities of the Indian tribal governments or impose substantial direct compliance costs on them, the funding and consultation requirements of Executive Order 13175 do not apply.

E. Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501 *et seq.*) requires that DOT consider the impact of paperwork and other information collection burdens imposed on the public and, under the provisions of PRA section 3507(d), obtain approval from the Office of Management and Budget (OMB) for each collection of information it conducts, sponsors, or

Law Through Transparency and Fairness in Civil Administrative Enforcement and Adjudication).

[2] See, *e.g.,* U.S. Department of Transportation, DOT Order 2100.6, ''Policies and Procedures for Rulemakings,'' available at *https://www.transportation.gov/regulations/2018-dot-rulemaking-order.* Note that, consistent with the authorities described in this final rule, DOT is also reviewing the procedures and policies contained in this order to determine what revisions are necessary.

requires through regulations. The DOT has determined there are no new information collection requirements associated with this final rule.

F. National Environmental Policy Act

The agency has analyzed the environmental impacts of this action pursuant to the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321 *et seq.*) and has determined that it is categorically excluded pursuant to DOT Order 5610.1C, ''Procedures for Considering Environmental Impacts'' (44 FR 56420, October 1, 1979). Categorical exclusions are actions identified in an agency's NEPA implementing procedures that do not normally have a significant impact on the environment and therefore do not require either an environmental assessment (EA) or environmental impact statement (EIS). The purpose of this rulemaking is to update the Department's administrative procedures for rulemaking, guidance documents, and enforcement actions. The agency does not anticipate any environmental impacts, and there are no extraordinary circumstances present in connection with this rulemaking.

Regulation Identifier Number

A regulation identifier number (RIN) is assigned to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in the spring and fall of each year. The RIN contained in the heading of this document can be used to cross reference this action with the Unified Agenda.

List of Subjects

14 CFR Part 302

Administrative practice and procedure, Air carriers, Airports, Postal Service.

14 CFR Part 399

Administrative practice and procedure, Air carriers, Air rates and fares, Air taxis, Consumer protection, Law enforcement, Policies, Rulemaking procedures, Small businesses.

49 CFR Part 1

Authority delegations (Government agencies), Organization and functions (Government agencies).

49 CFR Part 5

Administrative practice and procedure.

49 CFR Part 7

Freedom of information, Reporting and recordkeeping requirements.

49 CFR Part 106

Administrative practice and procedure, Hazardous materials transportation.

49 CFR Part 389

Administrative practice and procedure, Highway safety, Motor carriers, Motor vehicle safety.

49 CFR Part 553

Administrative practice and procedure, Motor vehicle safety.

49 CFR Part 601

Authority delegations (Government agencies), Freedom of information, Organization and functions (Government agencies).

In consideration of the foregoing, the Office of the Secretary of Transportation amends 14 CFR parts 302 and 399, and 49 CFR parts 1, 5, 7, 106, 389, 553, and 601, as follows:

Title 14—Aeronautics and Space

PART 302—RULES OF PRACTICE IN PROCEEDINGS

■ 1. The authority citation for part 302 continues to read as follows:

Authority: 39 U.S.C. 5402; 42 U.S.C. 4321, 49 U.S.C. Subtitle I and Chapters 401, 411, 413, 415, 417, 419, 461, 463, and 471.

■ 2. Revise § 302.16 to read as follows:

§ 302.16 Petitions for rulemaking.

Any interested person may petition the Department for the issuance, amendment, modification, or repeal of any regulation or guidance document, subject to the provisions of 49 CFR 5.3.

PART 399—STATEMENTS OF GENERAL POLICY

■ 3. The authority citation for part 399 continues to read as follows:

Authority: 49 U.S.C. 41712, 40113(a).

■ 4. Amend § 399.75 by revising paragraph (b) introductory text to read as follows:

§ 399.75 Rulemakings relating to unfair and deceptive practices.

* * * * *

(b) *Procedural requirements.* When issuing a proposed regulation under paragraph (a) of this section, unless the regulation is specifically required by statute, the Department shall adhere to the following procedural requirements:

* * * * *

§ 399.79 [Amended]

■ 5. Amend § 399.79 by removing the first sentence of paragraph (e)(1).

Title 49—Transportation

PART 1—ORGANIZATION AND DELEGATION OF POWERS AND DUTIES

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

Authority: 49 U.S.C. 322.

■ 7. Amend § 1.27 by revising paragraph (e) to read as follows:

§ 1.27 Delegations to the General Counsel.

* * * * *

(e) Respond to petitions for rulemaking or petitions for exemptions in accordance with 49 CFR 5.3, and notify petitioners of decisions in accordance with 49 CFR 5.3(d)(5).

* * * * *

■ 8. Revise part 5 to read as follows:

PART 5—ADMINISTRATIVE PROCEDURES

Subpart A—GENERAL

Sec. 5.1 Applicability.

Subpart B—Rulemaking Procedures

5.3 Petitions.
5.5 Public contacts in informal rulemaking.
5.7 Policy updates and revisions.
5.9 Disclaimer.

Authority: 49 U.S.C. 322(a).

Subpart A—General

§ 5.1 Applicability.

(a) This part prescribes general procedures that apply to rulemakings of the U.S. Department of Transportation (the Department or DOT), including each of its operating administrations (OAs) and all components of the Office of Secretary of Transportation (OST).

(b) For purposes of this part, *Administrative Procedure Act (APA)* is the Federal statute, codified in scattered sections of chapters 5 and 7 of title 5, United States Code, that governs procedures for agency rulemaking and adjudication and provides for judicial review of final agency actions.

Subpart B—Rulemaking Procedures

§ 5.3 Petitions.

(a) Any person may petition an OA or OST component with rulemaking authority to:

(1) Issue, amend, or repeal a rule, as defined in 5 U.S.C. 551; or

(2) Issue an exemption, either permanently or temporarily, from any requirements of a rule, consistent with applicable statutory or regulatory provisions.

(b) When an OA or OST component receives a petition under this section, the petition should be filed with the

Docket Clerk in a timely manner. If a petition is filed directly with the Docket Clerk, the Docket Clerk will submit the petition in a timely manner to the OA or component of OST with regulatory responsibility over the matter described in the petition.

(c) The OA or component of OST should provide clear instructions on its website to members of the public regarding how to submit petitions, including, but not limited to, an email address or Web portal where petitions can be submitted, a mailing address where hard copy requests can be submitted, and an office responsible for coordinating such requests.

(d) Unless otherwise provided by statute or in OA regulations or procedures, the following procedures apply to the processing of petitions for rulemaking or exemption:

(1) *Contents.* Each petition filed under this section must:

(i) Be submitted, either by paper submission to the U.S. Department of Transportation, Docket Operations, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590, or electronically by emailing: *regulationC50.law@dot.gov;*

(ii) Describe the nature of the request and set forth the text or substance of the rule, or specify the rule that the petitioner seeks to have issued, amended, exempted, or repealed, as the case may be;

(iii) Explain the interest of the petitioner in the action requested, including, in the case of a petition for an exemption, the nature and extent of the relief sought and a description of the persons to be covered by the exemption;

(iv) Contain any information and arguments available to the petitioner to support the action sought; and

(v) In the case of a petition for exemption, unless good cause is shown in that petition, be submitted at least 60 days before the proposed effective date of the exemption, as appropriate.

(2) *Processing.* Each petition received under this section is referred to the head of the office responsible for the subject matter of that petition, and the Office of Regulation.

(3) *Grants.* If the OA or component of OST with regulatory responsibility over the matter described in the petition determines that the petition contains adequate justification, it may request the initiation of a rulemaking action in accordance with departmental procedures or grant the petition, as appropriate.

(4) *Denials.* If the OA or component of OST determines that the petition is not justified, the OA or component of OST denies the petition in coordination with the Office of Regulation.

(5) *Notification.* Whenever the OA or OST component determines that a petition should be granted or denied, and after consultation with the Office of Regulation in the case of denial, the office concerned prepares a notice of that grant or denial for issuance to the petitioner, and issues it to the petitioner.

§ 5.5 Public contacts in informal rulemaking.

(a) *Agency contacts with the public during informal rulemakings conducted in accordance with 5 U.S.C. 553.* (1) DOT personnel may have meetings or other contacts with interested members of the public concerning an informal rulemaking under 5 U.S.C. 553 or similar procedures at any stage of the rulemaking process, provided the substance of material information submitted by the public that DOT relies on in proposing or finalizing the rule is adequately disclosed and described in the public rulemaking docket such that all interested parties have notice of the information and an opportunity to comment on its accuracy and relevance.

(2) During the pendency of a rulemaking proceeding, DOT personnel must avoid giving persons outside the executive branch information regarding the rulemaking that is not available generally to the public.

(3) If DOT receives an unusually large number of requests for meetings with interested members of the public during the comment period for a proposed rule or after the close of the comment period, the issuing OA or component of OST should consider whether there is a need to extend or reopen the comment period, to allow for submission of a second round of ''reply comments,'' or to hold a public meeting on the proposed rule.

(4) If the issuing OA or OST component meets with interested persons on the rulemaking after the close of the comment period, it should be open to giving other interested persons a similar opportunity to meet.

(5) If DOT learns of significant new information, such as new studies or data, after the close of the comment period that the issuing OA or OST component wishes to rely upon in finalizing the rule, the OA or OST component should reopen the comment period to give the public an opportunity to comment on the new information. If the new information is likely to result in a change to the rule that is not within the scope of the notice of proposed rulemaking (NPRM), the OA or OST component should consider issuing a supplemental NPRM to ensure that the final rule represents a logical outgrowth of DOT's proposal.

(b) [Reserved]

§ 5.7 Policy updates and revisions.

This subpart shall be reviewed from time to time to reflect improvements in the rulemaking process or changes in Administration policy.

§ 5.9 Disclaimer.

This subpart is intended to improve the internal management of the Department. It is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its agencies or other entities, officers or employees, or any other person. In addition, this subpart shall not be construed to create any right to judicial review involving the compliance or noncompliance with this subpart by the Department, its OAs or OST components, its officers or employees, or any other person.

PART 7—PUBLIC AVAILABILITY OF INFORMATION

■ 9. The authority citation for part 7 continues to read as follows:

Authority: 5 U.S.C. 552; 31 U.S.C. 9701; 49 U.S.C. 322; E.O. 12600; E.O. 13392.

■ 10. Amend § 7.12 by revising paragraph (a)(2) to read as follows:

§ 7.12 What records are available in reading rooms, and how are they accessed?

(a) * * *

(2) Statements of policy and interpretations that have been adopted by DOT;

* * * * *

PART 106—RULEMAKING PROCEDURES

■ 11. The authority citation for part 106 continues to read as follows:

Authority: 49 U.S.C. 5101–5128; 49 CFR 1.81 and 1.97.

■ 12. Amend § 106.40 by revising paragraph (d)(1) to read as follows:

§ 106.40 Direct final rule.

* * * * *

(d) * * *

(1) If we receive an adverse comment, we will either publish a document withdrawing the direct final rule before it becomes effective and may issue an NPRM, or proceed by any other means permitted under the Administrative Procedure Act.

* * * * *

PART 389—RULEMAKING PROCEDURES—FEDERAL MOTOR CARRIER SAFETY REGULATIONS

■ 13. The authority citation for part 389 continues to read as follows:

Authority: 49 U.S.C. 113, 501 *et seq.,* subchapters I and III of chapter 311, chapter 313, and 31502; sec. 5204 of Pub. L. 114–94, 129 Stat. 1312, 1536; 42 U.S.C. 4917; and 49 CFR 1.87.

§ 389.13 [Amended]

■ 14. Amend § 389.13 by removing the first sentence of paragraph (a).

■ 15. Amend § 389.39 by revising paragraph (d)(1) to read as follows:

§ 389.39 Direct final rulemaking procedures.

* * * * *

(d) * * *

(1) If FMCSA receives an adverse comment within the comment period, it will either publish a document withdrawing the direct final rule before it becomes effective and may issue an NPRM, or proceed by any other means permitted under the Administrative Procedure Act.

* * * * *

PART 553—RULEMAKING PROCEDURES

■ 16. The authority citation for part 553 continues to read as follows:

Authority: 49 U.S.C. 322, 30103, 30122, 30124, 30125, 30127, 30146, 30162, 32303, 32502, 32504, 32505, 32705, 32901, 32902, 33102, 33103, and 33107; delegation of authority at 49 CFR 1.95.

■ 17. Amend § 553.14 by revising paragraphs (d) to read as follows:

§ 553.14 Direct final rulemaking.

* * * * *

(d) If NHTSA receives any written adverse comment within the specified time after publication of the direct final rule in the **Federal Register**, the agency will either publish a document withdrawing the direct final rule before it becomes effective and may issue an NPRM, or proceed by any other means permitted under the Administrative Procedure Act.

* * * * *

PART 601—ORGANIZATION, FUNCTIONS, AND PROCEDURES

■ 18. The authority citation for part 601 continues to read as follows:

Authority: 5 U.S.C. 552; 49 U.S.C. 5334; 49 CFR 1.91.

■ 19. Amend § 601.36 by revising paragraph (d) to read as follows:

§ 601.36 Procedures for direct final rulemaking.

* * * * *

(d) If FTA receives any written adverse comment within the specified time of publication in the **Federal Register**, FTA will either publish a document withdrawing the direct final rule before it becomes effective and may issue an NPRM, or proceed by any other means permitted under the Administrative Procedure Act.

* * * * *

Signed in Washington, DC, on March 24, 2021.

Peter Paul Montgomery Buttigieg,

Secretary.

[FR Doc. 2021–06416 Filed 4–1–21; 8:45 am]

BILLING CODE 4910–9X–P

CONSUMER PRODUCT SAFETY COMMISSION

16 CFR Part 1231

[Docket No. CPSC–2015–0031]

Safety Standard for High Chairs

AGENCY: Consumer Product Safety Commission.

ACTION: Direct final rule.

SUMMARY: In June 2018, the U.S. Consumer Product Safety Commission (CPSC) published a consumer product safety standard for high chairs under section 104 of the Consumer Product Safety Improvement Act of 2008 (CPSIA). The standard incorporated by reference the ASTM voluntary standard that was in effect for high chairs at the time. The CPSIA sets forth a process for updating mandatory standards for durable infant or toddler products that are based on a voluntary standard, when a voluntary standards organization revises the standard. In December 2020, ASTM published a revised voluntary standard for high chairs, and it notified the Commission of this revised standard in January 2021. This direct final rule updates the mandatory standard for high chairs to incorporate by reference ASTM's 2020 version of the voluntary standard for high chairs.

DATES: The rule is effective on July 3, 2021, unless CPSC receives a significant adverse comment by May 3, 2021. If CPSC receives such a comment, it will publish notification in the **Federal Register**, withdrawing this direct final rule before its effective date. The incorporation by reference of the publication listed in this rule is approved by the Director of the Federal Register as of July 3, 2021.

ADDRESSES: You can submit comments, identified by Docket No. CPSC–2015–0031, by any of the following methods:

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

Mail/hand delivery/courier Written Submissions: Submit comments by mail/hand delivery/courier to: Division of the Secretariat, Consumer Product Safety Commission, Room 820, 4330 East West Highway, Bethesda, MD 20814; telephone: (301) 504–7479. Alternatively, as a temporary option during the COVID–19 pandemic, you can email such submissions to: *cpsc-os@cpsc.gov.*

Instructions: All submissions must include the agency name and docket number for this document. CPSC may post all comments without change, including any personal identifiers, contact information, or other personal information provided, to: *https://www.regulations.gov.* Do not submit electronically: Confidential business information, trade secret information, or other sensitive or protected information that you do not want to be available to the public. If you wish to submit such information, please submit it according to the instructions for mail/hand delivery/courier written submissions.

Docket: For access to the docket to read background documents or comments received, go to: *https://www.regulations.gov,* and insert the docket number, CPSC–2015–0031, into the ''Search'' box, and follow the prompts.

FOR FURTHER INFORMATION CONTACT: Keysha Walker, Compliance Officer, U.S. Consumer Product Safety Commission, 4330 East West Highway, Bethesda, MD 20814; telephone (301) 504–6820; email: *kwalker@cpsc.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

A. Statutory Authority

Section 104(b)(1) of the CPSIA requires the Commission to assess the effectiveness of voluntary standards for durable infant or toddler products and adopt mandatory standards for these products. 15 U.S.C. 2056a(b)(1). The mandatory standard must be ''substantially the same as'' the voluntary standard, or it may be ''more

stringent than'' the voluntary standard, if the Commission determines that more stringent requirements would further reduce the risk of injury associated with the product. *Id.*

Section 104(b)(4)(B) of the CPSIA specifies the process for when a voluntary standards organization revises a standard that the Commission incorporated by reference under section 104(b)(1). First, the voluntary standards organization must notify the Commission of the revision. Once the Commission receives this notification, the Commission may reject or accept the revised standard. The Commission may reject the revised standard by notifying the voluntary standards organization that it has determined that the revised standard does not improve the safety of the consumer product and that it is retaining the existing standard. When rejecting a revision, the Commission must notify the voluntary standards organization of this determination within 90 days of receiving notice of the revision. If the Commission does not take this action to reject the revised standard, the revised voluntary standard will be considered a consumer product safety standard issued under section 9 of the Consumer Product Safety Act (15 U.S.C. 2058), effective 180 days after the Commission received notification of the revision (or a later date specified by the Commission in the **Federal Register**). 15 U.S.C. 2056a(b)(4)(B).

B. Safety Standard for High Chairs

In June 2018, under section 104(b)(1) of the CPSIA, the Commission adopted a mandatory rule for high chairs, codified in 16 CFR part 1231. The rule incorporated by reference ASTM F404–18, *Standard Consumer Safety Specification for High Chairs,* without modification. 83 FR 28358 (June 19, 2018). At the time the Commission published the final rule, ASTM F404–18 was the current version of the voluntary standard.

On April 3, 2019, ASTM notified CPSC that it had issued a revised standard for high chairs, ASTM F404–18a, which added a new subsection 6.5.1 to exempt high chairs intended for infants who are unable to sit upright unassisted (birth to approximately 6 months of age) or weigh 20 lbs or less (reclined seat high chairs) from sections 6.5.2. *Forward and Sideways Stability,* 6.5.3. *Rearward Stability,* and 6.5.4 *Stability with Child Climbing into Chair.* In accordance with the procedures set out in section 104(b)(4)(B) of the CPSIA, staff reviewed the revised standard to determine whether ASTM F404–18a improved the safety of high chairs. Staff concluded that the addition of subsection 6.5.1 was a substantive change to ASTM F404–18 that did not improve the safety of high chairs.

In the June 5, 2019 staff briefing memorandum, staff explained that the stability requirements in ASTM F404–18 address stability as the child occupant moves within and about the chair, and from external forces on the chair, such as sibling or caregiver interactions. ASTM developed these stability requirements because high chairs are intended for use by mobile children, up to 3 years of age. ASTM's rationale for exempting reclined seat high chairs from stability requirements was that the test methods in ASTM F404–18 could not be conducted on these products, as required in the standard. Staff's briefing memorandum stated that ASTM's assertion that stability testing could not be done on reclined seat high chairs was inaccurate, because staff was able to test such products under the standard's existing stability requirements.

Staff's briefing memorandum also expressed concern that exempting high chairs and high chair accessories intended for children who are unable to sit upright unassisted (birth to approximately 6 months of age) from stability requirements was not consistent with other product standards that are intended for the same age group, such as bouncers and bassinets, which also are intended for young infants, but are tested to stability requirements to prevent tipovers. Tipover requirements in the bouncers and bassinets standards (16 CFR parts 1229 and 1218, respectively) are intended to address tipovers caused by the infant user moving within the product (bouncers), as well as external forces (bassinets), such as sibling or caregiver interactions with the product. Moreover, staff's review of high chair incident data showed that tipover incidents resulting from occupant movement within the high chair, or from external forces, such as a sibling or caregiver acting on the high chair, do occur with children 6 months and younger.

Based on staff's recommendation, the Commission voted *not* to adopt the revised voluntary standard and maintained the mandatory standard based on ASTM F404–18.[1] Staff notified ASTM of the Commission's decision to retain ASTM F404–18 on June 19, 2019.

On January 4, 2021, ASTM notified CPSC that it had again revised the voluntary standard for high chairs, approving ASTM F404–20 on October 1, 2020.[2] As this preamble discusses, based on CPSC staff's review of ASTM F404–20,[3] the Commission will allow the revised voluntary standard to become the mandatory standard because the revised requirements in the voluntary standard either improve the safety of high chairs, or are safety neutral. Accordingly, by operation of law under section 104(b)(4)(B) of the CPSIA, ASTM F404–20 will become the mandatory consumer product safety standard for high chairs on July 3, 2021.[4] 15 U.S.C. 2056a(b)(4)(B). This direct final rule updates 16 CFR part 1231 to incorporate by reference the revised voluntary standard, ASTM F404–20.

II. Description of ASTM F404–20

The ASTM standard for high chairs includes performance requirements, test methods, and requirements for warning labels and instructional literature, to address hazards to infants and children associated with high chairs. ASTM has revised the voluntary standard for high chairs twice since ASTM F404–18, which is the current mandatory standard. Section I.B of this preamble explains that the Commission previously rejected a revised high chair voluntary standard, ASTM F404–18a, in 2019, because the standard exempted reclined seat high chair products from stability testing. The latest revision, ASTM F404–20, now includes stability testing for these products, developed in conjunction with CPSC staff. Accordingly, the Commission will allow ASTM F404–20 to become the mandatory standard, and is updating 16 CFR part 1231 to reference this most recent updated voluntary standard.

This section describes the changes in ASTM F404–20 compared to ASTM

[1] *https://www.cpsc.gov/s3fs-public/Update%20to%20Voluntary%20Standard%20for%20High%20Chairs.pdf?5nvjyCgQrNh.pQhwmCtd85aQJfc2mohX.*

[2] ASTM published ASTM F404–20 in December 2020. Until the standard becomes effective on July 3, 2021, a read-only copy of ASTM's standard is available at: *https://www.astm.org/CPSC.htm.* After the effective date of the revised part 1231, ASTM F404–20 becomes the mandatory standard for high chairs, and it will be available, to read only, at: *https://www.astm.org/READINGLIBRARY/.*

[3] CPSC staff's briefing memorandum regarding ASTM F404–20 is available at: *https://www.cpsc.gov/s3fs-public/ASTMs-Revised-Safety-Standard-for-High-Chairs.pdf?_dFed3_8cTsV0J0TTVXk4oCRCWUGxsPx.*

[4] The statute provides that if the Commission does not take action to reject a revised standard, the revised voluntary standard will be considered a consumer product safety standard issued under section 9 of the Consumer Product Safety Act (15 U.S.C. 2058), effective 180 days after the Commission received notification of the revision (or a later date specified by the Commission in the **Federal Register**). 15 U.S.C. 2056a(b)(4)(B). In this case, 180 days from the January 4, 2021 notice date is July 3, 2021.

F404–18. On October 1, 2020, ASTM approved a revised version of the standard, ASTM F404–20. In accordance with CPSIA section 104(b)(4)(B), ASTM notified CPSC of this revision on January 4, 2021. ASTM F404–20 includes several substantive changes, several revisions to clarify existing requirements, and editorial revisions that do not alter substantive requirements in the standard or affect safety.

A. Substantive Revisions

ASTM F404–20 contains substantive revisions from the current mandatory standard to distinguish performance requirements and test methods for two types of high chairs: (1) ''[h]igh chairs and high chair accessories that have adjustment positions that, per the manufacturer's instructions, are recommended for use only for children able to sit upright unassisted (approximately 6 months of age) or weighing more than 20 lb (9.1 kg)'' (hereinafter referred to as upright seat high chairs) and (2) ''[h]igh chairs and high chair accessories that have adjustment positions that are manufacturer's recommended use positions for use with children who are unable to sit upright unassisted (birth to approximately 6 months of age) or weigh 20 lb (9.1 kg) or less, when adjusted into the most onerous manufacturer's recommended use and/or adjustment position for each direction to be tested'' (hereinafter referred to as reclined seat high chairs). Primarily, ASTM F404–20 provides new performance requirements and associated test methods to test the stability of reclined seat high chairs.

1. Performance Requirements

CPSC staff worked closely with ASTM to help develop new stability testing requirements for reclined seat high chair products. In November 2018, CPSC staff tested six reclined seat high chair products to proposed stability requirements from a manufacturer who expressed concerns about the ability to test reclined seat high chairs. In March 2019, CPSC staff hosted an ASTM reclined seat high chair task group meeting at CPSC's laboratory in Rockville, Maryland, where staff demonstrated testing on reclined seat high chair products. The task group decided to explore the idea of using the stability test from the bassinet and cradle standard to develop stability requirements for reclined seat high chair products because this test addresses the tip over hazard that was most concerning to both ASTM and CPSC staff: The interaction of a sibling or caregiver pulling on the reclined seat product. The task group presented the idea of developing a test for reclined seat high chairs that is similar to the bassinet stability testing at the ASTM subcommittee teleconference on April 4, 2019. This idea ultimately was the basis of the new stability requirements for reclined seat products in ASTM F404–20.

Substantively, ASTM F404–20 improves the safety of high chairs because it adds a new stability requirement and test method for reclined seat high chairs. Table 1 below summarizes the differences between ASTM–F404–18 and ASTM F404–20 with regard to stability testing in section 6.5 of ASTM F404 (changes are highlighted in bold).

TABLE 1—STABILITY PERFORMANCE REQUIREMENTS: COMPARISON OF F404–18 TO F404–20

Section	F404–18	F404–20
6.5	*Stability*	*Stability*
6.5.1	*Forward and Sideways Stability*—A high chair shall not tip over when setup as defined in 7.7.2.1–7.7.2.3, and then when forces are applied in accordance with 7.7.2.4 and 7.7.2.5.	High chairs and high chair accessories that have adjustment positions that, per the manufacturer's instructions, are recommended for use only for children able to sit upright unassisted (approximately 6 months of age) or weighing more than 20 lb (9.1 kg) shall comply with 6.5.1.1 to 6.5.1.3. in all those manufacturer's recommended use and adjustment positions.
6.5.1.1		*Forward and Sideways Stability*—A high chair shall not tip over when setup as defined in 7.7.2.1–7.7.2.3, and then when forces are applied in accordance with 7.7.2.4 and 7.7.2.5.
6.5.1.2		*Rearward Stability*—When setup as defined in 7.7.2.1– 7.7.2.3, and then tested in accordance with 7.7.2.6, the high chair shall have a Rearward Stability Index of 50 or more.
6.5.1.3		*Stability with Child Climbing into Chair*—A high chair shall not tip over when tested in accordance with 7.7.4.
6.5.2	*Rearward Stability*—When setup as defined in 7.7.2.1– 7.7.2.3, and then tested in accordance with 7.7.2.6, the high chair shall have a Rearward Stability Index of 50 or more.	High chairs and high chair accessories that have adjustment positions that are manufacturer's recommended use positions for use with children who are unable to sit upright unassisted (birth to approximately 6 months of age) or weigh 20 lb (9.1 kg) or less, when adjusted into the most onerous manufacturer's recommended use and/or adjustment position for each direction to be tested, shall not tip over and shall retain the CAMI dummy when tested in accordance with 7.7.3, in the forward, rearward, and sideways directions.
6.5.3	*Stability with Child Climbing into Chair*—A high chair shall not tip over when tested in accordance with 7.7.3.	

2. Stability Test Methods

ASTM F404–18 requires testing a high chair for stability in the forward, rearward, and sideways directions, requiring that the chair not tip over as the child occupant, up to 3 years of age, moves within the chair. Because this test was intended for upright seat high chairs designed for children up to 3 years old, the test places a total of 40-lb weights (two 20-lb weights), to simulate the weight of a 95th percentile 36-month-old, on the seat of the high chair to simulate a child in the seat, which acts as a counter-balance when horizontal forces are applied in the forward, rearward and sideways directions. The forces applied are designed to simulate the forces that the child occupant would exert on the high chair by moving within the seat of the product.

For reclined seat high chairs, the ASTM subcommittee concluded that this stability testing developed for upright seat high chairs was inadequate, because the child's counter-balance load is different, based on the intended weight range for reclined seat products.

Stability testing for upright seat high chairs uses a 40-lb counter-balance weight, because the weight range is for children weighing more than 20 lbs. This 40-lb counter-balance weight would not effectively test the stability of reclined seat high chair products that are intended for lower-weight infants from birth (~7 lb) to 20 lbs, because a 40-lb counter-balance weight would make the reclined seat high chair product more stable than a 20-lb counter-balance weight. A 20 lb counter-balance weight is a more stringent weight to test stability for high chairs intended for lower weight children. Moreover, the seat recline affects both the seat back and the seat bottom, causing the center of mass to be distributed differently than with an upright seat high chair. Weight distribution in reclined seat high chairs is more towards the seat back, whereas weight distribution in upright seat high chairs is more towards the seat bottom. Finally, due to the inclined seat design, test engineers had difficulty placing the 40 lb test weight in the seat to conduct stability testing.

Because of these design differences, ASTM developed a new testing methodology for reclined seat high chairs, in collaboration with CPSC staff. After evaluating several test methods, the task group decided that the stability testing from the bassinet standard was most appropriate to test reclined seat high chairs. Instead of using a weight to simulate a child as a counter-balance in the seat, the new stability test uses a CAMI Newborn Dummy (7.5 lb). The anthropomorphic CAMI Newborn Dummy better fits the reclined seat, and the weight is better distributed within the high chair than with the barbell type weights used to test upright seat high chairs. Also, the test engineer can more easily locate the points on the reclined seat high chair to place the loads around the chair. Using the CAMI Newborn Dummy instead of weights resulted in more repeatable and consistent test results.

Given that reclined seat high chairs are designed for infants in a lower age/weight range (birth to 20 lbs), who have limited moving capabilities, these infants are unlikely to create instability issues by themselves. Instead, instability for reclined seat high chair products would likely come from external sources (*e.g.,* caregivers bumping into the chair and/or siblings pulling on the chair). Accordingly, for reclined seat products, the new stability test method in section 7.7.3 of ASTM F404–20 adopts stability requirements and testing from the bassinet standard, ASTM F2194–16e1, which was designed to test siblings interacting with the product. Section 7.4 of ASTM F404–20 uses the CAMI Newborn Dummy as the counter-balance weight in the reclined seat high chair to simulate external forces that may tip the product over, such as a sibling pulling down on the edge of the product. This test employs a dual application of horizontal and vertical forces to simulate application of an angled load; the combination of the weights and forces in the testing simulate the mean strength of a 2-year-old pulling on the product.

Following is a description of each new stability test method for reclined seat high chair products:

- 7.7.3.4 *Forward Stability,* requires that a 23-lb weight be hung onto the forward-most edge of the high chair seat or tray. The high chair must not tip over while this load is maintained, and then a horizontal force of 5 lb is applied outward from the center of the seat, at the same location as the 23-lb weight.
- 7.7.3.5 *Rearward Stability,* requires that a 23-lb weight be hung onto the rearmost edge of the seat. The high chair must not tip over while this load is maintained, and then a horizontal force of 5 lb is applied outward from the center of the seat, at the same location as the 23-lb weight.
- 7.7.3.6 *Sideways Stability,* requires that a 23-lb weight be hung onto the outermost point of the frame on the side being tested. The high chair must not tip over while this load is maintained and then a horizontal force of 5 lb is applied from the center of the seat, at the location as the 23-lb weight.

The Commission concludes that new stability performance and test methods for reclined seat high chairs improve the safety of high chairs, because these tests are designed to address tipover hazards associated with infant users moving within the product and external forces like a sibling or caregiver interacting with the product. Additionally, use of the 7.5-lb CAMI Newborn Dummy provides a more stringent test for the tipover hazard. The test is more stringent because a lighter weight provides less of a counter-balance in assessing external forces acting on the reclined seat high chair products than the heavier 40-lb weight used to test upright seat high chairs intended for children up to 3 years old.

3. Static Load Test Methods

a. High Chair Seat

ASTM F404–18, the current mandatory standard, requires a static load test for high chair seats. The test requires the high chair seat to support static loads without causing any hazardous conditions, such as collapsing or breaking.

ASTM F404–20 splits into two parts section 7.6.1 *Seat Static Load Test* to separate the test method intended for upright seat high chairs in section 7.6.1.1, from a new test method intended for reclined seat high chairs in section 7.6.1.2. Separating test requirements by product type allows for static load testing requirements based on the weight of the child the seat was intended to hold. Accordingly, section 7.6.1.2 of ASTM F404–20, for reclined seat high chairs, uses half the test weight compared to section 7.6.1.1, for upright seat high chairs, to test for collapse (50 lbs applied over 60 seconds, compared to 100 lbs applied over 60 seconds in section 7.6.1.1).

The rationale for the 100-lb load for the upright seat high chair static load test is that it represents 2.5 times that of the maximum occupant's weight of 40 lbs. The test weight for reclined seat high chairs in section 7.6.1.2 follows this same rationale, using a 50-lb load weight, which is 2.5 times the maximum occupant's weight of 20 lbs. Lowering the static load test weight for products intended for lower-weight occupants provides the same level of safety for both upright and reclined seat high chairs, because the respective weights represent the maximum intended occupant weights for each product type. Accordingly, because both types of high chairs in section 7.6.1 use the same weight ratio to test the static load, this change is neutral to the safety of high chairs.

b. Step/Footrest

The current mandatory standard, ASTM F404–18, requires that a step or footrest shall support static loads without causing any hazardous conditions, such as collapsing and breaking. This step/footrest static load test is designed to test that the step/foot rest of the high chair will not collapse under the weight of the child climbing into the high chair. Section 7.6.2 *Step/Footrest Static Load Test* of ASTM F404–20 has a new section, 7.6.2.1, which exempts high chairs intended for children weighing less than 20 lbs from the step/footrest static load testing requirement, because infants who weigh less than 20 lbs would not be mobile enough to climb into the high chair using the step/footrest. Staff states that they are unaware of any incidents involving step/footrest collapse with children who weigh less than 20 lbs, meaning children 6 months old or younger. Based on this analysis, the

Commission concludes that this change is neutral to the safety of high chairs.

c. High Chair Tray

Currently, in ASTM F404–18, the intent of the tray static load test is to ensure that a high chair tray does not collapse under the weight of the child occupant if placed there temporarily while the caregiver is putting the child into the high chair. ASTM F404–20, section 7.6.3 *Tray Static Load Test,* separates the tray static load test into two parts: Section 7.6.3.1 describes testing high chairs intended for children weighing more than 20 lbs (9 kg), and section 7.6.3.2 describes testing high chairs intended for children weighing 20 lbs or less. Because high chairs intended for infants who weigh 20 lbs or less would have less of a static load to cause collapse of the high chair tray, section 7.6.3.2 uses half the test weight of the tray static load test for high chairs intended for children who weight more than 20 lbs (25 lbs applied over 60 seconds, compared to 50 lbs applied over 60 seconds in section 7.6.3.1).

As with the high chair seat static load testing, ASTM F404–20 requires that both types of high chairs be tested to the same level of safety, because load testing is adjusted based on the maximum weight of the child occupant. Accordingly, this change is neutral to the safety of high chairs because differentiating the tray static load test based on the weight of the intended child occupant does not reduce the level of safety for high chair products.

4. Dynamic High Chair Test Methods

ASTM F404–18 requires that all high chairs meet a dynamic high chair test, which is intended to address the collapse of a high chair when an older child (up to 3 years old) bounces up and down in the chair. Section 7.10.1 of ASTM F404–20 adds an exemption from this test for high chairs intended for use with children weighing 20 lbs or less. ASTM's rationale for the exemption is that lower weight users of the product will not be mobile enough to bounce significantly in the high chair, or bear enough weight to cause the high chair to collapse. Staff is unaware of incidents of high chair collapse due to lower weight children, 6 months old and younger, bouncing in the product. Accordingly, this change is neutral to the safety of high chairs, because exemption of high chairs intended for children weighing 20 lbs or less from dynamic testing is unlikely to reduce the level of safety for these products, given that these high chairs are intended for use by infants with limited mobility.

B. Non-Substantive Changes

ASTM F404–20 also includes minor additions and revisions that are editorial and do not alter any substantive requirements in the standard. Because they do not change any substantive requirements, these revisions are neutral regarding the safety of high chairs.

1. Referenced Documents

Section 2 of ASTM F404–20 lists other standards referenced in F404. Section 2.3 of ASTM F404–20, *ANSI standards,* was revised to include a reference to ANSI Z535.1 Safety Colors. This revision was made to be consistent with other ASTM standards that reference the ANSI standard for safety colors for use in distinguishing warning labels. Additionally, section 2.4 of ASTM F404–20, *Other references,* adds a reference to new test equipment, the CAMI Infant Dummy Mark II and the CAMI Newborn Dummy, which are used in the new stability testing for reclined seat high chair products. Staff considers these changes to be neutral to the safety of high chairs, because they are editorial in nature and do not substantively alter requirements in the standard.

2. Terminology

Section 3.1.7.2 of ASTM F404–20, *Discussion,* includes a new note stating that a product that has an elevated seat and is designed or promoted for eating and feeding, or shown near a dining table would be considered within the scope of the high chair standard. Staff considers this change to be neutral to the safety of high chairs, because it provides further discussion on the definition of ''high chairs,'' but does not alter the definition, nor change the scope of the standard.

Other changes in Terminology include changing the term ''free standing'' to ''free-standing,'' and in section 3.1.21, revising the definition of ''static load,'' as follows:

3.1.21 *static load, n*—vertically downward ~~force~~ *load* applied by ~~a calibrated force gauge or by dead weights.~~ *weights or other means.*

These changes in terminology are neutral to the safety of high chairs because they are editorial in nature and do not substantively alter the definitions.

3. Calibrations and Standardizations, General Requirements, and Performance Requirements

ASTM made a few editorial changes to the sections of ASTM F404–20 on calibrations and standardizations, general requirements, and performance requirements, to clarify provisions and to be consistent with other ASTM standards. For example, ASTM made editorial changes such as revising ''0.210 in (5 mm)'' to ''0.210-in (5-mm).'' These revisions are neutral to the safety of high chairs, because they do not substantively alter the requirements in these sections.

III. Incorporation by Reference

Section 1231.2 of the direct final rule incorporates by reference ASTM F404–20. The Office of the Federal Register (OFR) has regulations regarding incorporation by reference. 1 CFR part 51. Under these regulations, agencies must discuss, in the preamble to a final rule, ways in which the material the agency incorporates by reference is reasonably available to interested parties, and how interested parties can obtain the material. In addition, the preamble to the final rule must summarize the material. 1 CFR 51.5(b).

In accordance with the OFR regulations, section II. Description of ASTM F404–20 of this preamble summarizes the major provisions of ASTM F404–20 that the Commission incorporates by reference into 16 CFR part 1231. The standard is reasonably available to interested parties and interested parties can purchase a copy of ASTM F404–20 from ASTM International, 100 Barr Harbor Drive, P.O. Box C700, West Conshohocken, PA 19428–2959 USA; phone; 610–832–9585; *www.astm.org.* Additionally, until the direct final rule takes effect, a read-only copy of ASTM F404–20 is available for viewing on ASTM's website at: *https://www.astm.org/CPSC.htm.* Once the rule takes effect, a read-only copy of the standard will be available for viewing on the ASTM website at: *https://www.astm.org/READINGLIBRARY/.* Interested parties can also schedule an appointment to inspect a copy of the standard at CPSC's Division of the Secretariat, U.S. Consumer Product Safety Commission, Room 820, 4330 East West Highway, Bethesda, MD 20814, telephone: 301–504–7479; email: *cpsc-os@cpsc.gov.*

IV. Certification

Section 14(a) of the Consumer Product Safety Act (CPSA; 15 U.S.C. 2051–2089) requires manufacturers of products subject to a consumer product safety rule under the CPSA, or to a similar rule, ban, standard, or regulation under any other act enforced by the Commission, to certify that the products comply with all applicable CPSC requirements. 15 U.S.C. 2063(a). Such certification must be based on a test of each product, or on a reasonable testing program, or, for children's products, on

tests of a sufficient number of samples by a third party conformity assessment body accredited by CPSC to test according to the applicable requirements. As noted, standards issued under section 104(b)(1)(B) of the CPSIA are ''consumer product safety standards.'' Thus, they are subject to the testing and certification requirements of section 14 of the CPSA.

Because high chairs are children's products, a CPSC-accepted third party conformity assessment body must test samples of the products for compliance with part 1231. Products subject to part 1231 also must comply with all other applicable CPSC requirements, such as the lead content requirements in section 101 of the CPSIA,[5] the phthalates prohibitions in section 108 of the CPSIA [6] and 16 CFR part 1307, the tracking label requirements in section 14(a)(5) of the CPSA,[7] and the consumer registration form requirements in section 104(d) of the CPSIA.[8]

V. Notice of Requirements

In accordance with section 14(a)(3)(B)(iv) of the CPSIA, the Commission previously published a notice of requirements (NOR) for accreditation of third party conformity assessment bodies (third party labs) for testing high chairs, and codified the requirement at 16 CFR § 1112.15(b)(44). 83 FR at 28368–70. The NOR provided the criteria and process for CPSC to accept accreditation of third party labs for testing high chairs to 16 CFR part 1231. *Id.* The Commission codified NORs for all mandatory standards for durable infant or toddler products in ''Requirements Pertaining to Third Party Conformity Assessment Bodies,'' 16 CFR part 1112.

ASTM F404–20 includes new stability requirements for testing reclined seat high chairs. We note that the current mandatory standard based on ASTM F404–18 already requires stability testing for high chairs intended for children up to 3 years old, such that the Commission considers third party labs that are currently CPSC-accepted for 16 CFR part 1231 have demonstrated competence for the new stability testing for reclined seat high chairs in ASTM F404–20.

Additional testing requirements for reclined seat high chair products in ASTM F404–20, however, introduce test equipment previously not required in testing to ASTM F404–18, specifically, a 23-lb weight, and a CAMI Newborn Dummy. Similar stability testing, with similar weights and the CAMI Newborn Dummy, are also required in testing to the mandatory standard for bassinets and cradles, 16 CFR part 1218, based on ASTM F2194–16e1. Additionally, the CAMI Newborn Dummy is required test equipment for the mandatory standard for hand-held infant carriers, 16 CFR part 1225, based on ASTM F2050–16. Currently, 19 third party labs are CPSC-accepted to test to the Safety Standard for High Chairs, and 17 of these 19 third party labs are also CPSC-accepted to test to part 1218 and/or part 1225. Accordingly, only two of the 19 third party labs will likely have to source new test materials to test to ASTM F404–20.

Based on experience purchasing test equipment, these two third party labs, one in Singapore and one in Taiwan, should be able to purchase the necessary weights, as these weights can be as simple as gym/barbell weights or even weight bags. Additionally, staff advises that the CAMI Newborn Dummy is available from at least three sources globally. Because the effective date of the revised high chair standard is July 3, 2021, these two third party labs have sufficient time to acquire the necessary test equipment.

Third party labs will begin testing to the new standard when ASTM F404–20 goes into effect on July 3, 2021, and the existing accreditations that the Commission has accepted for testing to this standard will cover testing to the revised standard. Accordingly, the existing NOR for the Safety Standard for High Chairs will remain in place, and CPSC-accepted third party labs are expected to update the scope of the third party lab's accreditations to reflect the revised high chair standard in the normal course of renewing their accreditations.

VI. Direct Final Rule Process

The Commission is issuing this rule as a direct final rule. Although the Administrative Procedure Act (APA; 5 U.S.C. 551–559) generally requires agencies to provide notice of a rule and an opportunity for interested parties to comment on it, section 553 of the APA provides an exception when the agency, ''for good cause finds'' that notice and comment are ''impracticable, unnecessary, or contrary to the public interest.'' *Id.* 553(b)(B). The Commission concludes that when it updates a reference to an ASTM standard that the Commission incorporated by reference under section 104(b) of the CPSIA, notice and comment are not necessary.

Under the process set out in section 104(b)(4)(B) of the CPSIA, when ASTM revises a standard that the Commission has previously incorporated by reference under section 104(b)(1)(B) of the CPSIA, that revision will become the new CPSC standard, unless the Commission determines that ASTM's revision does not improve the safety of the product. Thus, unless the Commission makes such a determination, the ASTM revision becomes CPSC's standard by operation of law. The Commission is allowing ASTM F404–20 to become CPSC's new standard. The purpose of this direct final rule is to update the reference in the Code of Federal Regulations (CFR) so that it reflects the version of the standard that takes effect by statute. This rule updates the reference in the CFR, but under the terms of the CPSIA, ASTM F404–20 takes effect as the new CPSC standard for high chairs, even if the Commission does not issue this rule. Thus, public comments would not alter substantive changes to the standard or the effect of the revised standard as a consumer product safety rule under section 104(b) of the CPSIA. Under these circumstances, notice and comment are unnecessary.

In Recommendation 95–4, the Administrative Conference of the United States (ACUS) endorses direct final rulemaking as an appropriate procedure to expedite rules that are noncontroversial and that are not expected to generate significant adverse comments. *See* 60 FR 43108 (Aug. 18, 1995). ACUS recommends that agencies use the direct final rule process when they act under the ''unnecessary'' prong of the good cause exemption in 5 U.S.C. 553(b)(B). Consistent with the ACUS recommendation, the Commission is publishing this rule as a direct final rule, because CPSC does not expect any significant adverse comments.

Unless CPSC receives a significant adverse comment within 30 days of this notification, the rule will become effective on July 3, 2021. In accordance with ACUS's recommendation, the Commission considers a significant adverse comment to be ''one where the commenter explains why the rule would be inappropriate,'' including an assertion challenging ''the rule's underlying premise or approach,'' or a claim that the rule ''would be ineffective or unacceptable without change.'' 60 FR 43108, 43111. As noted, this rule merely updates a reference in the CFR to reflect a change that occurs by statute.

If the Commission receives a significant adverse comment, the Commission will withdraw this direct final rule. Depending on the comment and other circumstances, the Commission may then incorporate the adverse comment into a subsequent

[5] 15 U.S.C. 1278a.

[6] 15 U.S.C. 2057c.

[7] 15 U.S.C. 2063(a)(5).

[8] 15 U.S.C. 2056a(d).

direct final rule or publish a notice of proposed rulemaking, providing an opportunity for public comment.

VII. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA; 5 U.S.C. 601–612) generally requires agencies to review proposed and final rules for their potential economic impact on small entities, including small businesses, and prepare regulatory flexibility analyses. 5 U.S.C. 603, 604. The RFA applies to any rule that is subject to notice and comment procedures under section 553 of the APA. *Id.* As discussed in section VI. Direct Final Rule Process of this preamble, the Commission has determined that notice and the opportunity to comment are unnecessary for this rule. Therefore, the RFA does not apply. The Commission also notes the limited nature of this document, which merely updates the incorporation by reference to reflect the mandatory CPSC standard that takes effect under section 104 of the CPSIA.

VIII. Paperwork Reduction Act

The current mandatory standard for high chairs includes requirements for marking, labeling, and instructional literature that constitute a ''collection of information,'' as defined in the Paperwork Reduction Act (PRA; 44 U.S.C. 3501–3521). The revised mandatory standard for high chairs does not alter these requirements. The Commission took the steps required by the PRA for information collections when it adopted 16 CFR part 1231, including obtaining approval and a control number. Because the information collection is unchanged, the revision does not affect the information collection requirements or approval related to the standard.

IX. Environmental Considerations

The Commission's regulations provide a categorical exclusion for the Commission's rules from any requirement to prepare an environmental assessment or an environmental impact statement where they ''have little or no potential for affecting the human environment.'' 16 CFR 1021.5(c)(2). This rule falls within the categorical exclusion, so no environmental assessment or environmental impact statement is required.

X. Preemption

Section 26(a) of the CPSA provides that where a consumer product safety standard is in effect and applies to a product, no state or political subdivision of a state may either establish or continue in effect a requirement dealing with the same risk of injury unless the state requirement is identical to the Federal standard. 15 U.S.C. 2075(a). Section 26(c) of the CPSA also provides that states or political subdivisions of states may apply to CPSC for an exemption from this preemption under certain circumstances. Section 104(b) of the CPSIA deems rules issued under that provision ''consumer product safety standards.'' Therefore, once a rule issued under section 104 of the CPSIA takes effect, it will preempt in accordance with section 26(a) of the CPSA.

XI. Effective Date

Under the procedure set forth in section 104(b)(4)(B) of the CPSIA, when a voluntary standards organization revises a standard that the Commission adopted as a mandatory standard, the revision becomes the CPSC standard within 180 days of notification to the Commission, unless the Commission determines that the revision does not improve the safety of the product, or the Commission sets a later date in the **Federal Register**. 15 U.S.C. 2056a(b)(4)(B). The Commission is taking neither of those actions with respect to the revised standard for high chairs. Therefore, ASTM F404–20 automatically will take effect as the new mandatory standard for high chairs on July 3, 2021, 180 days after the Commission received notice of the revision on January 4, 2021. As a direct final rule, unless the Commission receives a significant adverse comment within 30 days of this document, the rule will become effective on July 3, 2021.

XII. Congressional Review Act

The Congressional Review Act (CRA; 5 U.S.C. 801–808) states that before a rule may take effect, the agency issuing the rule must submit the rule, and certain related information, to each House of Congress and the Comptroller General. 5 U.S.C. 801(a)(1). The CRA submission must indicate whether the rule is a ''major rule.'' The CRA states that the Office of Information and Regulatory Affairs (OIRA) determines whether a rule qualifies as a ''major rule.''

Pursuant to the CRA, this rule does not qualify as a ''major rule,'' as defined in 5 U.S.C. 804(2). To comply with the CRA, CPSC will submit the required information to each House of Congress and the Comptroller General.

List of Subjects in 16 CFR Part 1231

Consumer protection, Imports, Incorporation by reference, Imports, Infants and children, Law enforcement, Safety, Toys.

For the reasons discussed in the preamble, the Commission amends 16 CFR chapter II as follows:

PART 1231—SAFETY STANDARD FOR HIGH CHAIRS

■ 1. Revise the authority citation for part 1231 to read as follows:

Authority: Sec. 104, Pub. L. 110–314, 122 Stat. 3016 (15 U.S.C. 2056a); Sec 3, Pub. L. 112–28, 125 Stat. 273.

■ 2. Revise § 1231.2 to read as follows:

§ 1231.2 Requirements for High Chairs.

Each high chair shall comply with all applicable provisions of ASTM F404–20, *Standard Consumer Safety Specification for High Chairs,* approved on October 1, 2020. The Director of the Federal Register approves this incorporation by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. You may obtain a copy from ASTM International, 100 Barr Harbor Drive, P.O. Box C700, West Conshohocken, PA 19428–2959; phone: (610) 832–9585; *www.astm.org.* A read-only copy of the standard is available for viewing on the ASTM website at *https://www.astm.org/READINGLIBRARY/.* You may inspect a copy at the Division of the Secretariat, U.S. Consumer Product Safety Commission, Room 820, 4330 East West Highway, Bethesda, MD 20814, telephone (301) 504–7479, email: *cpsc-os@cpsc.gov,* or at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, email *fedreg.legal@nara.gov,* or go to: *www.archives.gov/federal-register/cfr/ibr-locations.html.*

Alberta E. Mills,

Secretary, Consumer Product Safety Commission.

[FR Doc. 2021–06419 Filed 4–1–21; 8:45 am]

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DEPARTMENT OF AGRICULTURE

Forest Service

36 CFR Part 230

RIN 0596–AD23

Community Forest Program

AGENCY: Forest Service, U.S. Department of Agriculture (USDA).

ACTION: Final rule.

SUMMARY: The United States Department of Agriculture has revised the final rule for the Community Forest and Open Space Program (Community Forest Program). The revisions included in this final rule will allow grant recipients to convey conservation easements to funding entities and, in some circumstances when consistent with the program's purposes, convey community forest land to other eligible entities. The final rule also clarifies the definitions of program-specific terms, streamlines the application process, and implements the Office of Management and Budgets (OMB)'s Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards.

DATES: This final rule is effective May 3, 2021.

ADDRESSES: For more information, including a copy of the final rule, refer to the World Wide Web/internet at: *https://www.fs.usda.gov/managing-land/private-land/community-forest.* More information may be obtained by written request to the Director, Cooperative Forestry Staff, Forest Service, USDA, Mail Stop 1123, 1400 Independence Avenue SW, Washington, DC 20250–1123.

FOR FURTHER INFORMATION CONTACT: Scott Stewart, Program Manager, State and Private Forestry, Cooperative Forestry Staff, (202) 205–1618. Individuals who use telecommunication devices for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at (800) 877–8339 between 8:00 a.m. and 8:00 p.m., Eastern Standard Time, Monday through Friday.

SUPPLEMENTARY INFORMATION:

I. Background

The Community Forest Program is authorized by Section 8003 of the Food, Conservation, and Energy Act of 2008 (Pub. L. 110–246; 122 Stat. 2043). On October 20, 2011, the Forest Service issued regulations (36 CFR part 230, subpart A) implementing the program. After selecting and awarding the first round of grants under the current 36 CFR part 230, subpart A, the Agency identified some inconsistencies and inefficiencies in the regulation that hinders the Agency's ability to efficiently and effectively implement the program.

One of the critical inconsistencies can be found in § 230.8, which specifies the acquisition requirements for this program. Section 230.8(a)(5) lists the documents and statements that must be recorded with the deed as part of the Notice of Grant Requirement. It states that, ''. . . the grant recipient will not convey or encumber the interest in real property, in whole or in part, to another party . . .''. This language is more restrictive than necessary and inconsistent with the grant assurances (OPM Form 424D), which allows a grant recipient to convey or encumber the interest in real property with prior approval from the granting Agency. Furthermore, the restrictive language prevents eligible entities from using funding mechanisms that require establishment of a conservation easement, even though this arrangement could be compatible with Community Forest Program requirements. This provision also prevents the transfer of ownership interest in a Community Forest to another eligible entity if the original owner becomes unable to hold or maintain the parcel.

Additionally, the Agency seeks to reduce the burden of paperwork and information collections on applicants. Currently, the Agency requests an eight-page application, a map of the parcel in question, all forms required for issuance of a Federal grant, and a draft community forest plan. The current application process is overly burdensome, and all elements of the current process are not necessary to ensure the selection of high-quality community forest projects that meet the intent of the program.

The Agency also seeks to clarify definitions and refine provisions regarding the use of technical assistance funds. The language clarifies how technical assistance should be determined and requested. Some of the definitions in the current regulation are unclear and confuse the intent of the program. The Agency seeks to provide clarification and reduce the amount of confusion caused by the unclear definitions.

Lastly, the Agency is eliminating the separate cost share and grant requirements for non-profit organizations, Tribal governments, and local governments in (§§ 230.6(c) and 230.7(a)(2)). The Agency will follow the guidance outlined in the OMB Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Assistances (2 CFR part 400).

Need for the Final Rule

The Forest Service is revising this regulation to correct inconsistencies and inefficiencies, to clarify confusing language, reduce the paperwork collection burden for applicants, and to update grant requirements to comply with grant regulations and OMB circulars. These changes will help ensure that the regulations align with the intent and purposes of the authorizing legislation.

Project Compliance With the National Environmental Policy Act

Project grants are subject to the National Environmental Policy Act (NEPA) and must comply with the Agency's NEPA implementing procedures as described in 36 CFR part 220, as well as the Council on Environmental Quality's NEPA procedures at 40 CFR parts 1500–1508. Community Forest Program grants are used to transfer title and ownership of private lands to third parties and will not fund any ground-disturbing activities. The Forest Service has concluded that Community Forest Program grants fall under the categorical exclusion provided in the Forest Service's NEPA procedures for ''acquisition of land or interest in land'' 36 CFR 220.6(d)(6); 73 FR 43084 (July 24, 2008). As a result, Community Forest Program project grants are excluded from documentation in an environmental assessment or impact statement.

Uniform Relocation Assistance and Real Property Acquisition for Federal and Federally-Assisted Programs

The Uniform Relocation Assistance and Real Property Acquisition Policy Act of 1970 (''Uniform Act'') (42 U.S.C. 4601, et. seq.) provides guidance and procedures for the acquisition of real property by the Federal Government, including relocation benefits to displaced persons. Department of Transportation regulations implementing the Uniform Act (49 CFR part 24) have been adopted by the Department of Agriculture (7 CFR part 21). However, the Community Forest Program is deemed exempt from the Uniform Act because it meets the exemption criteria stated at 49 CFR 24.101(b)(1).

Federal Appraisal Standards

Section 7A(c)(4) of the Cooperative Forestry Assistance Act (16 U.S.C. 2103d(c)(4)), requires that land acquired under Community Forest Program be appraised in accordance with the Uniform Appraisal Standards for Federal Land Acquisitions (Federal Appraisal Standards) in order to determine the non-Federal cost share of a parcel of privately-owned forest land. The Federal Appraisal Standards are contained in a readily available public document, which is well known to professional appraisers (see: *https://www.justice.gov/file/408306/download*). A grant recipient is responsible for assuring that the appraisal of the

Community Forest Program tract is done in conformance with the Federal Appraisal Standards. The Federal Appraisal Standards shall be used to determine reimbursement for non-Federal cost share. However, separate tracts donated for the purpose of providing the non-Federal cost share may be appraised using the Uniform Standards of Professional Appraisal Practice (USPAP) or the IRS regulations for a donation in land. The Forest Service may be available to assist applicants with the appraisal and associated appraisal review and will conduct spot checks to assure compliance with Federal Appraisal Standards.

2. Formal Government-to-Government Consultation With Federally Recognized Tribes

Indian Tribes were invited to government-to-government consultation (consultation) on the CFP proposed rule prior to review and comment by the general public. The consultation process was initiated September 29, 2015. The Deputy Chief for State and Private Forestry sent a letter to the Forest Service regional leadership requesting that they initiate consultation with federally recognized Tribes. Each unit then initiated consultation with Indian Tribes, providing them with information about the CFP, the proposed rule, how to request government-to government consultation, and where to send comments. Consultation concluded September 30, 2016. Forest Service incorporated the input received through consultation and the public comment process into the development of this final rule.

Indian Tribal Input and Agency Responses

36 CFR 230.2—Definitions

Comment: A definition of cultural resources should be included in the regulation. A simple reference to ''cultural resources'' will have varying meanings to the different eligible entities involved with a Community Forest Plan. If a definition is not included, a reference to consideration of Traditional Cultural Places/Properties (TCPs) should be provided. TCPs play an important role in Tribal community traditions, beliefs and activities and thus need to be protected.

Response: The final rule includes additional language to clarify the meaning of cultural resources to include tangible and intangible resources.

Eligible Lands

Comment: Section 230.2 Definition: Expand the definition of item 2 to expressly refer to ''Indian Trust Assets'' (ITAs) and ''non-trust Indian lands''. ITAs are defined in the implementation regulations for Public Law 93–638 as an interest in land, water, minerals, funds or other assets or property which is held by the United States in trust for an Indian Tribe or an individual Indian or which is held by an Indian Tribe or Indian subject to a restriction on alienation impacted by the United States (25 CFR 900.6). A simple reference to ''lands held in trust by the United States'' will have varying meanings to the different eligible entities involved in the development of a proposed Community Forest Plan.

Response: The final rule expressly refers to Indian reservations and allotment land when defining eligible and non-eligible lands. Since ITAs are defined as ''. . . an *interest* in land, water, minerals, funds or other assets or property . . .'' this would not be applicable in determining if the land was eligible or non-eligible for the Community Forest Program; no change made to final rule.

Comment: Provide clarity that it is the governing body of the Indian Tribe that designates or authorizes an individual to represent the Tribe.

Response: Clarifying language was added to the definition for Equivalent officials of Indian Tribes in the final rule.

3. Summary of Comments and Agency Responses to Public Comments

On December 8, 2015, the Forest Service published in the **Federal Register** (80 FR 76251) a proposed rule revision to allow Community Forest and Open Space Program grant recipients to issue conservation easements to funding entities, convey or encumber an interest in community forest land to other eligible entities, clarify program-specific terms, streamline the application process, and implement the Office of Management and Budget's Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (2 CFR parts 200 and 400).

The Forest Service solicited comments on the proposed rule for 90 days ending March 7, 2016. The Forest Service received comments from ten individuals contributing 32 total comments, overwhelmingly in favor of the rule revision, with a few suggestions for clarification and one party opposed with comments not germane to the rule. One response was from an individual member of the public, two respondents represented local municipalities, two responses were from regional coalitions, four respondents were regional representatives of national non-profit organizations, and one response was received from a Forest Service regional program manager. Responses from Indian Tribes, the agencies that work with them and government-to-government consultations were also received and analyzed separately (see Government-to-Government Consultation with Indian Tribes above and Consultation and Coordination with Indian Tribes in Regulatory Certification).

Comments on the Proposed Rule Revision 36 CFR Part 230, Subpart A

General Comments

Comments in favor: Two commenters commended the Agency on its flexibility in allowing conveyances of land holdings should the need arise.

230.2 Definitions

Comments in favor: Three commenters commended the Forest Service for including the addition of ''cultural resources'' to the definition of ''environmental benefits.'' It helps promote the range of resource values that CFP is helping to protect.

Comments suggesting modifications: Two commenters requested that the Forest Service clarify the range of permissible commercial activities on a community forest. As currently read, the exception for ''compatible commercial uses'' is not specific beyond its description as ''limited.''

Agency Response: The rule is not intended to be unnecessarily prescriptive. Future commercial uses could arise that may be reasonable, and the language as written allows for a future dialogue between a grant recipient and the Forest Service rather than excluding them prescriptively without deliberation. The Agency determined that the language as written provides reasonable guidelines for a discussion of compatible uses, so long as those uses do not conflict with the community values provided by the community forest.

§ 230.4 Application Requirements

Comments in favor: Nine commenters expressed favor that the revised rule would allow for the draft plan to be submitted only after a project has been selected and a grant awarded. This is a common-sense change that will reduce the administrative burden for CFP applicants, and will not reduce the number of high-quality project applications.

§ 230.6 Project Costs and Cost Share Requirements

Comments suggesting modifications: Requesting that the Agency provide clarity with respect to the prohibition on the use of ''other Federal funds unless specifically authorized by Federal statute.'' To the extent practicable, the Agency should clarify that the Gulf Coast Restoration Trust Fund and the Department of Defense Readiness and Environmental Protection Program are eligible as non-Federal cost share for the purposes of the Community Forest Program.

Agency Response: If law, or regulations promulgated to implement a law, indicate that Federal funds may be treated as non-Federal, the Community Forest Program will adhere to that direction. The Agency is not in a position to make explicit determinations on the nature of all possible funding mechanisms contributed for cost-share. Therefore, leaving the language in its current form allows program managers to follow existing law and policy while retaining the opportunity to evaluate emerging situations and opportunities.

§ 230.8 Acquisition Requirements

Comments in favor: Seven commenters in favor of the proposed revision would amend existing regulations to allow encumbrances on the land, as long as they are not contrary to the purposes of the program. This is a change from the current language, which states that grant recipients may not ''encumber the interest in real property, in whole or in part, to another party.'' This revision is a common-sense change that will make it easier to develop partnerships in acquiring and managing community forests and ultimately broaden participation in the program.

Comments suggesting modifications: The Forest Service should require a new Notice of Grant Requirement be recorded if an eligible transfer to another entity occurs.

Agency Response: The Forest Service agrees with this suggestion and has expanded upon the language to ensure that any new entity receiving the community forest land holdings will subsume all responsibilities required of the original grant recipient. The language has also been modified to reflect the need to document land conveyances through a new Notice of Grant Requirement.

§ 230.9 Ownership and Use Requirements

Comments suggesting modifications: Four commenters suggested the revised rule states that a community forest plan be submitted within 120 days of the acquisition and periodically updated to guide the management and use of the forest. We request that the deadline for submitting a plan be extended past the 120-day limit. We expect that in many cases, the 120 day deadline will be more than enough to gather feedback to draft a community forest plan. However, in such instances where more input is needed, an extension to the deadline would be useful in order to ensure meaningful public input.

Agency Response: The Agency maintains that the 120-day deadline should remain in order to encourage timely deliberation and efficient communication between stakeholders. In order to provide appropriate flexibility to address unforeseen circumstances, the Forest Service has modified the rule to ensure that regional managers have the discretion to extend the planning process for an additional 60 days if there is sufficient justification for why the deadline cannot be met.

Comment: The Forest Service should provide greater clarification regarding the ''periodic updating'' of the plan. It should be clearer how often the plan should be updated, and what elements of the plan need updating.

Agency Response: The Agency concurs with this suggestion, and has modified the language to require periodic updating of the community forest plan in the event of new threats of encroachment, significant changes to forest health threats requiring alterations in proposed treatments, or when a significant lapse in time has occurred since the initial plan was created.

Comment: ''Grant recipients'' should be replaced with ''Community Forest Holders/Owners''. If an allowed transfer to another eligible entity occurs, the owner of the community forest is no longer the Grant Recipient. This could make the initial grantee ineligible for future funding opportunities through the program.

Agency Response: The Agency has modified the language to clarify that if lands are conveyed voluntarily by a recipient who had adhered to the stipulations of both the grant agreement and the Agency instructions for conveyance as outlined in the rule and grant agreement, then that original grant recipient would be eligible for future program funding.

§ 230.10 Technical Assistance Funds

Comments suggesting modifications: As written, the rule requires State Foresters or equivalent officials of Indian Tribes to indicate the financial need and purpose of technical assistance in their Community Forest application. Because the application comes from the eligible entity and not the state, the commenter suggests amending the language to assert that financial need and purpose should be indicated ''in the project budget and formally requested by the State when forwarding the applications received by the applicants to the Forest Service.''

Agency Response: The Agency emphasizes coordination between the grant applicant and the State or Tribal representative to ensure that technical assistance needs are already adequately characterized in the budget. Section 230.3 clearly requires that the State Forester or equivalent official must clarify technical assistance funding needs for any services rendered upon submission of the application to the Forest Service.

Regulatory Certifications

Regulatory Planning and Review

This final rule has been reviewed under USDA procedures and Executive Order 12866. The Office of Management and Budget (OMB) has determined that this rule is non-significant for purposes of Executive Order 12866.

This final rule does not regulate the private use of land or the conduct of business. It is a grant program for local governments, Tribal governments, and qualified nonprofit organizations for purposes of acquiring land for resource conservation and open space preservation. By providing funding to eligible entities for land acquisition, the Federal Government will promote the non-monetary benefits of sustainable forest management. These benefits include: Improved air and water quality, wildlife and fish habitat, forest-based educational programs including vocational education programs in forestry, replicable models of effective forest stewardship for private landowners, open space preservation, carbon sequestration, and enhanced recreational opportunities including hunting and fishing.

Proper Consideration of Small Entities

This final rule has been considered in light of Executive Order 13272 regarding property considerations of small entities and the Small Business Regulatory Enforcement Fairness Act of 1996. Voluntary participation in the Community Forest Program does not impose significant direct costs on small entities. This final rule imposes no additional requirements on the affected public. Entities most likely affected by this final rule are the local governments,

qualified nonprofit organizations, and Tribal governments eligible to receive a grant through the Community Forest Program. The minimum requirements imposed on small entities by this final rule are necessary to protect the public interest and should be within the capabilities of small entities to perform, and should not be administratively burdensome or costly to meet. The final rule would not materially alter the budgetary impact of entitlements, user fees, loan programs, or the rights and obligations of program participants. It does not compel the expenditure of $100 million or more by any State, local or Indian Tribal government, or anyone in the private sector. Under these circumstances, the Forest Service has determined that this action would not have a significant economic impact on a substantial number of small entities.

Unfunded Mandates

Pursuant to Title II of the Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538), which the President signed into law on March 22, 1995, the Agency has assessed the effects of this rule on State, local, and Indian Tribal governments and the private sector. This final rule does not compel the expenditure of $100 million or more by any State, local or Indian Tribal governments, or anyone in the private sector. Therefore, a statement under section 202 of that Act is not required.

Federalism

The Forest Service has considered this final rule under the requirements of Executive Order 13132, Federalism, and Executive Order 12875, Government Partnerships. The Forest Service has determined that the rule conforms to the federalism principles set out in these Executive orders. The rule would not impose any compliance costs on the States other than those imposed by statute, and would not have substantial direct effects on the States, on the relationship between the Federal Government and the States, or on the distribution of power and responsibilities among the various levels of government.

Controlling Paperwork Burdens on the Public

In accordance with the Paperwork Reduction Act of 1995 [44 U.S.C. Chapter 35], the Forest Service requested and received an approval of an extension without change of a currently approved information collection.

Title: Community Forest and Open Space Conservation Program.

OMB Number: 0596–0227.

Expiration Date of Approval: 12/31/2021.

Type of Request: Revision of a Currently Approved Information Collection.

Abstract: The purpose of Community Forest Program is to achieve community benefits through grants to local governments, Tribal Governments, and qualified nonprofit organizations to establish community forests by acquiring and protecting private forestlands. This rule includes information requirements necessary to implement the Community Forest Program and comply with grants regulations and OMB Circulars. The information requirements will be used to help the Forest Service:

(1) Determine that the applicant is eligible to receive funds under the program,

(2) Determine if the proposal meets the qualifications in the law and regulations,

(3) Evaluate and rank the proposals based on a standard, consistent information, and

(4) Determine if the projects costs are allowable and sufficient cost share is provided.

Local governmental entities, Tribal Governments, and qualified nonprofit organizations are the only entities eligible for the program and therefore are the only organizations from which information will be collected.

The information collection currently required for a request for proposals and grant application is approved and has been assigned the OMB Control No. 0596–0227.

Comments were sought on the information collection aspect of this rule; none were received.

Consultations and Coordination With Indian Tribal Governments

This final rule has Tribal implications as defined in Executive Order 13175. Section 7A(a)(1) of the Cooperative Forestry Assistance Act establishes that federally recognized Indian Tribes are eligible to participate in the Community Forest Program. In accordance with the President's memorandum of April 29, 1994, ''Government-to-Government Relations With Native American Tribal Governments'' (59 FR 22951); the Executive Order of November 6, 2000, ''Consultation and Coordination With Indian Tribal Governments'' (E.O. 13175); and with the directives of the Department of Agriculture (DR 1350–001); we have determined that this change will not have an adverse effect on Indian Tribes. Tribal consultation was conducted through local and regional processes in coordination with requirements set out by the USDA, Forest Service.

No Takings Implications

This final rule has been analyzed in accordance with the principles and criteria contained in Executive Order 12630 and it has been determined that the rule does not pose the risk of a taking of constitutionally protected private property. This final rule implements a program to assist eligible entities in acquiring land from willing sellers. Any land use restrictions on Community Forest Program parcels are agreed to voluntarily by program participants.

Environmental Impact

The Forest Service has determined that this final rule falls under the categorical exclusion provided in Forest Service regulations on National Environmental Policy Act procedures. Such procedures exclude from documentation in an environmental assessment or environmental impact statement ''rules, regulations, or policies to establish service wide administrative procedures, program processes, or instructions.'' 36 CFR 220.6(d)(2); 73 FR 43084 (July 24, 2008). This final rule outlines the programmatic implementation of the CFP and has no direct effect on Forest Service decisions for its land management activities or on ground disturbing activities conducted by third-party entities.

Energy Effects

This final rule has been reviewed under Executive Order 13211 of May 18, 2001, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. It has been determined that this final rule does not constitute a significant energy action as defined in the Executive Order.

Civil Justice Reform

This final rule has been reviewed under Executive Order 12988, Civil Justice Reform. The Forest Service has not identified any State or local laws or regulations that are in conflict with this final rule or that would impede full implementation of this rule. Nevertheless, in the event that such a conflict is identified, the final rule would not preempt the State or local laws or regulations found to be in conflict. However, in that case, no retroactive effect would be given to this rule and the Forest Service would not require the use of administrative proceedings before parties could file suit in court challenging its provisions.

List of Subjects in 36 CFR Part 230

Grant programs, Grants administration, State and local governments, Tribal governments, Nonprofit organizations, Conservation, Forests and forest products, Land sales.

For the reasons set forth in the preamble, the Forest Service hereby amends part 230 of title 36 of the Code of Federal Regulations by revising subpart A to read as follows:

PART 230—STATE AND PRIVATE FORESTRY ASSISTANCE

■ 1. The authority citation for part 230 is revised to read as follows:

Authority: 16 U.S.C. 2103(d) & 2109(e).

■ 2. Revise subpart A to read as follows:

Subpart A—Community Forest and Open Space Conservation Program

Sec.
230.1 Purpose and scope.
230.2 Definitions.
230.3 Application process.
230.4 Application requirements.
230.5 Ranking criteria and proposal selection.
230.6 Project costs and cost share requirements.
230.7 Grant requirements.
230.8 Acquisition requirements.
230.9 Ownership and use requirements.
230.10 Technical assistance funds.

Subpart A—Community Forest and Open Space Conservation Program

§ 230.1 Purpose and scope.

(a)(1) The regulations of this subpart govern the rules and procedures for the Community Forest and Open Space Conservation Program (Community Forest Program), established under Section 7A of the Cooperative Forestry Assistance Act of 1978 (16 U.S.C. 2103d). Under the Community Forest Program, the Secretary of Agriculture, acting through the Chief of the Forest Service, awards grants to local governments, Indian Tribes, and qualified nonprofit organizations to establish community forests for community benefits by acquiring and protecting private forestlands. This subpart is designed to allow Community Forest and Open Space Program (Community Forest Program) grant recipients to grant conservation easements to funding entities, and, in some circumstances, to convey land to another eligible entity when consistent with the program's purposes.

(2) This subpart applies to grants awarded prior to and after May 3, 2021.

(b) The Community Forest Program applies to eligible entities within any of the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands of the United States, the Commonwealth of the Northern Mariana Islands, the Federated States of Micronesia, the Republic of the Marshall Islands, the Republic of Palau, and the territories and possessions of the United States.

§ 230.2 Definitions.

The terms used in this subpart are defined as follows:

Borrowed funds. Funds used for the purpose of cost share which would encumber the subject property, in whole or in part, to another party.

Community benefits. One or more of the following:

(1) Economic benefits such as timber and non-timber products resulting from sustainable forest management and tourism;

(2) Environmental benefits, including clean air and water, stormwater management, wildlife habitat, and cultural resources;

(3) Benefits from forest-based experiential learning, including K–12 conservation education programs; vocational education programs in disciplines such as forestry and environmental biology; and environmental education through individual study or voluntary participation in programs offered by organizations such as 4–H, Boy or Girl Scouts, Master Gardeners, etc.;

(4) Benefits from serving as replicable models of effective forest stewardship for private landowners; and

(5) Recreational benefits such as hiking, hunting, and fishing secured with public access.

Community forest. Forest land owned in fee-simple by an eligible entity that provides public access and is managed to provide community benefits pursuant to a Community Forest Plan.

Community Forest Plan. A tract-specific plan developed with community involvement that guides the management and use of a community forest and includes the following components:

(1) A description of all purchased tracts and cost share tracts, including acreage and county location, land use, forest type, and vegetation cover;

(2) Objectives for the community forest and strategies to implement those objectives;

(3) A description of the long-term use and management of the property;

(4) Community benefits to be achieved from the establishment of the community forest;

(5) A description of ongoing activities that promote community involvement in the development and implementation of the Community Forest Plan;

(6) Plans for the utilization or demolition of existing structures and proposed needs for further improvements;

(7) A description of public access and the rationale for any limitations on public access, such as protection of cultural (including tangible and intangible resources) or natural resources or public health and safety concerns; and

(8) Maps of sufficient scale to show the location of the property in relation to roads, communities, and other improvements as well as nearby parks, refuges, or other protected lands and any additional maps required to display planned management activities.

Eligible entity. An organization that is qualified to acquire and manage land, limited to the following:

(1) *Local governmental entity.* Any municipal government, county government, or other local government body with jurisdiction over local land use decisions as defined by Federal or State law.

(2) *Indian Tribe.* Defined by Section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b); includes federally recognized Indian Tribes and Alaska Native Corporations.

(3) *Qualified nonprofit organization.* As defined by the Community Forest Program authorizing statute (16 U.S.C. 2103d(a)(4)), any organization that is described in Section 170(h)(3) of the Internal Revenue Code of 1986 (26 U.S.C. 170(h)(3)) and operates in accordance with one or more of the conservation purposes specified in Section 170(h)(4)(A) of that Code (26 U.S.C. 170(h)(4)(A)). Conservation purposes include:

(i) The preservation of land areas for outdoor recreation by, or for the education of, the general public;

(ii) The protection of a relatively natural habitat for fish, wildlife, or plants, or similar ecosystem;

(iii) The preservation of open space (including farmland and forest land) for the scenic enjoyment of the general public or pursuant to a clearly delineated Federal, State, or local governmental conservation policy, where such preservation will yield a significant public benefit; or

(iv) The preservation of a historically important land area or a certified historic structure.

Eligible lands. Private forest lands that:

(1) Are threatened by conversion to nonforest uses;

(2) Are not lands held in trust by the United States, including Indian reservations and allotment land; and

(3) Can provide defined community benefits under the Community Forest Program and allow public access if acquired by an eligible entity.

Equivalent officials of Indian Tribes. Individual(s) designated and authorized by the governing body of the Indian Tribe to manage the forest proposed for acquisition.

Federal appraisal standards. The current Uniform Appraisal Standards for Federal Land Acquisitions developed by the Interagency Land Acquisition Conference (also known as the yellow book).

Fee-simple. Absolute interest in real property, versus a partial interest such as a conservation easement.

Forest lands. Lands that are at least five acres in size, suitable to sustain natural vegetation, and at least 75 percent forested. Forests are determined both by the presence of trees and the absence of incompatible nonforest uses.

Grant recipient. An eligible entity that receives a grant from the Forest Service through the Community Forest Program.

Landscape conservation initiative. A conservation or management plan or activity that identifies conservation needs and goals of a locality, state, or region. Examples of initiatives include community green infrastructure plans, a community or county land use plan, Indian Tribes' area of interest/homelands plans, a Statewide Forest Action Plan, etc. The conservation goals identified in the plan must correspond with the community and environmental benefits outlined for the Community Forest Program project.

Nonforest uses. Uses other than forest management that may be compatible or incompatible with maintaining community forest purposes.

(1) Nonforest uses that may be compatible with a community forest may include:

(i) Cultivated farmland, pasture, grassland, shrubland, open water, and wetlands; and

(ii) Low-impact structures or facilities that supports the purposes of the community forest and the Community Forest Program, such as recreational facilities, trails, concession and educational kiosks, energy development for onsite use, facilities associated with appropriate forest management, and parking areas.

(2) Incompatible nonforest uses are activities that threaten forest cover and are inconsistent with the Community Forest Plan. These uses may include, but are not limited to:

(i) Subdivision;

(ii) Residential development, except for a caretaker building;

(iii) Mining and nonrenewable resource extraction, except for activities that would not require surface disturbance of the community forest such as directional drilling for oil and gas development or onsite use of gravel from existing gravel pits;

(iv) Industrial use, including the manufacturing of products;

(v) Commercial use, except for sustainable timber or other renewable resources, and limited compatible commercial activities to support cultural, recreational and educational use of the community forest by the public; and

(vi) Structures, facilities, or organized, continuous, or recurring activities that disturb or compact the surface and/or impact forest and water resources in a manner that threatens the benefits and objectives of the community forest.

Public access. Access that is provided on a non-discriminatory basis at reasonable times and places, but may be limited to protect cultural (including tangible and intangible resources) and natural resources or public health and safety.

State Forester. The State employee who is responsible for administration and delivery of forestry assistance within a State, or equivalent official.

§ 230.3 Application process.

(a) The Forest Service will issue a national request for applications (RFA) for grants under the Community Forest Program. The RFA will be posted to *http://www.grants.gov* as well as other venues. The RFA will include the following information:

(1) The process and timeline for submitting an application;

(2) Application requirements (§ 230.4);

(3) Review process and criteria that will be used by the Forest Service (§ 230.5); and

(4) Additional information as the Forest Service determines appropriate.

(b) Pursuant to the RFA, interested eligible entities will submit an application for program participation to:

(1) The State Forester or equivalent official, for local governments and qualified nonprofit organizations; or

(2) The equivalent officials of the Indian Tribe, for applications submitted by an Indian Tribe.

(c) Interested eligible entities will also notify the Forest Service, pursuant to the RFA, when submitting an application to the State Forester or equivalent officials of the Indian Tribe.

(d) The State Forester or equivalent official of the Indian Tribe will forward all applications to the Forest Service and, as time and resources allow, provide a review of each application to help the Forest Service determine:

(1) That the applicant is an eligible entity;

(2) That the land is eligible;

(3) That the proposed project has not been submitted for funding consideration under the Forest Legacy Program; and

(4) Whether the project contributes to a landscape conservation initiative.

(e) If an applicant seeks technical assistance from the State Forester, nontribal applicants should contact the State Forester to discuss what technical assistance is needed and confirm that the State Forester is willing to provide that assistance. Tribal applicants should work with their equivalent officials (§ 230.2) to discuss and arrange similar technical assistance needs. Applicants must include a separate budget that outlines the financial needs associated with technical assistance activities (§ 230.10).

(f) A proposed application cannot be submitted for funding consideration simultaneously for both the Community Forest Program and the Forest Service's Forest Legacy Program (16 U.S.C. 2103c).

§ 230.4 Application requirements.

(a) Documentation verifying that the applicant is an eligible entity and that the proposed acquisition is of eligible lands.

(b) Applications must include details of the property proposed for acquisition:

(1) A description of the property, including acreage and county location;

(2) A description of current land uses, including improvements and plans for utilization or demolition of existing structures;

(3) A description of forest type and vegetative cover;

(4) A map of sufficient scale to show the location of the property in relation to roads and other improvements as well as parks, refuges, or other protected lands in the vicinity;

(5) A description of applicable zoning and other land use regulations affecting the property;

(6) Relationship of the property within and its contributions to a landscape conservation initiative; and

(7) A description of any threats of conversion to nonforest uses.

(c) Information regarding the proposed establishment of a community forest, including:

(1) Objectives of the community forest;

(2) A description of the benefiting community, including demographics, and the associated benefits provided by the proposed land acquisition;

(3) A description of the community involvement to date in the planning of the community forest and of the community involvement anticipated in its long-term management;

(4) Description of the planned public access and the rationale for any proposed limitations such as protection of cultural (including tangible and intangible resources) or natural resources, or public health and safety concerns;

(5) An identification of persons and organizations that support the project and their specific role in acquiring the land and establishing and managing the community forest;

(6) If the project is within the designated boundary of a Federal management unit, a letter of support for the project from the Federal land manager; and

(7) A description of the resources that will be used to maintain and manage the property as a community forest in perpetuity.

(d) Information regarding the proposed land acquisition, including:

(1) A proposed project budget including a table and/or narrative detailing the source/type of non-Federal cost share and all allowable expenses associated with the project (§ 230.6);

(2) Requests for State Forester, or equivalent official of Indian Tribes, technical assistance in Community Forest Plan preparation should be listed separately in the budget, along with their estimated costs of providing assistance (§ 230.10);

(3) The status of due diligence, as documented by a signed option or purchase and sale agreement, title search, minerals determination, and appraisal;

(4) Description and status of cost share (secure, pending, commitment letter, etc.) (§ 230.6);

(5) The status of negotiations with participating landowner(s) including purchase options, contracts, and other terms and conditions of sale;

(6) The proposed timeline for completing the acquisition and establishing the community forest; and

(7) Long term management costs and funding source(s).

(e) Applications must comply with the Uniform Federal Assistance Regulations (7 CFR part 3015).

§ 230.5 Ranking criteria and proposal selection.

The Forest Service will evaluate all applications received by the State Foresters or equivalent officials of the Indian Tribes and award grants based on the following criteria:

(a) Type and extent of community benefits provided (§ 230.2);

(b) Extent and nature of community engagement in the establishment and long-term management of the community forest;

(c) Extent to which the community forest contributes to a landscape conservation initiative;

(d) Likelihood that, unprotected, the property would be converted to nonforest uses;

(e) Amount of cost share leveraged;

(f) Extent of due diligence completed on the project, including cost share committed and status of appraisal;

(g) Costs to the Federal Government; and

(h) Additional considerations as may be outlined in the RFA.

§ 230.6 Project costs and cost share requirements.

(a) The Community Forest Program Federal contribution cannot exceed 50 percent of the total project costs.

(b) Allowable project and cost share costs will include the purchase price and the following transactional costs associated with the acquisition:

(1) Appraisals and appraisal reviews;

(2) Land surveys;

(3) Legal and closing costs;

(4) Development of the Community Forest Plan; and

(5) Title examination.

(c) The principles and procedures for determining allowable costs for grants are outlined in 2 CFR part 400, Uniform Administrative Requirements, Cost Principles, and Audit Requirements.

(d) Project costs do not include the following:

(1) Long-term operations, maintenance, and management of the land;

(2) Construction of buildings or recreational facilities;

(3) Research;

(4) Existing liens or taxes owed; and

(5) Costs associated with preparation of the application, except any allowable project costs specified in paragraph (b) of this section completed as part of the application.

(e) Cost share contributions can include cash, in-kind services, or donations and must:

(1) Be supported by grant regulations described in paragraphs (a) through (d) of this section;

(2) Not include other Federal funds unless specifically authorized by Federal statute;

(3) Not include non-Federal funds used as cost share for other Federal programs;

(4) Not include funds used to satisfy mandatory or compensatory mitigation requirements under a Federal regulation, such as the Clean Water Act, the River and Harbor Act, or the Endangered Species Act;

(5) Not include borrowed funds, as defined in § 230.2; and

(6) Be accomplished within the grant period.

(f) Cost share contributions may include the purchase or donation of other lands located within the community forest as long as it is provided by an eligible entity and legally dedicated to perpetual land conservation consistent with Community Forest Program and community forest objectives; such donations need to meet the acquisition requirements specified under § 230.8(a)(1)(ii).

(g) For purposes of calculating the cost share contribution, the grant recipient may request inclusion of project due diligence costs, such as title review and appraisals, incurred prior to issuance of the grant. These pre-award costs may have been incurred up to one year prior to the issuance of the grant, but cannot include the purchase of Community Forest Program land, including cost share tracts.

§ 230.7 Grant requirements.

(a) Once an application is selected, funding will be obligated to the grant recipient through a grant.

(1) The following grant forms and supporting materials must be completed after project selection in order to receive the grant:

(i) An Application for Federal Assistance (Standard Form 424);

(ii) Budget information (Standard Form 424c—Construction Programs);

(iii) Assurances of compliance with all applicable Federal laws, regulations, and policies (Standard Form 424d—Construction Programs); and

(iv) Additional forms, as may be required to award the grant.

(2) The grant paperwork must adhere to the requirements outlined in 2 CFR part 400, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards.

(b) The initial grant period will be two years, and acquisition of lands should occur within that timeframe. The grant may be reasonably extended by the Forest Service when necessary to accommodate unforeseen circumstances in the land acquisition process.

(c) Forest Service must approve any amendment to a proposal or request to reallocate funding within a grant proposal.

(d) The grant recipient must comply with the requirements in § 230.8(a) before funds will be released.

(e) After the grant has closed, grant recipients must provide the Forest

Service with a Geographic Information System (GIS) shapefile: A digital, vector-based storage format for storing geometric location and associated attribute information, of Community Forest Program project tracts and cost share tracts, if applicable.

(f) Any funds not expended within the grant period must be de-obligated and revert to the Forest Service for redistribution.

(g) All media, press, signage, and other documents discussing the creation of the community forest must reference the partnership and financial assistance by the Forest Service through the Community Forest Program.

§ 230.8 Acquisition requirements.

(a) Prior to closing on an acquisition, grant recipients participating in the Community Forest Program must complete the following, which applies to all tracts, including cost share tracts:

(1) Complete an appraisal:

(i) For lands purchased with Community Forest Program funds, the appraisal must comply with Federal appraisal standards prior to the release of the grant funds. The grant recipient must provide documentation that the appraisal and associated appraisal review were conducted in a manner consistent with the Federal appraisal standards.

(ii) For donated cost share tracts, the market value must be determined by an independent appraiser. The value needs to be documented by a responsible official of the party to which the property is donated.

(2) Notify the landowner in writing of the appraised value of the property and that the sale is voluntary. If the grant recipient has a voluntary option for less than appraised value, they do not have to renegotiate the agreement.

(3) Purchase all surface and subsurface mineral rights whenever possible. However, if severed mineral rights cannot be obtained, the grant recipient must follow the retention of qualified mineral interest requirements outlined in the Internal Revenue Service regulations (26 CFR 1.170A–14(g)(4)), which address both surface and subsurface minerals.

(4) Ensure that title to lands acquired conforms to title standards applicable to State land acquisitions where the land is located:

(i) Title to lands acquired using Community Forest Program funds must not be subject to encumbrances or agreements of any kind that would be contrary to the purpose of the Community Forest Program.

(ii) Title insurance must not be a substitute for acceptable title.

(5) The grant recipient must provide all necessary due diligence documentation to regional Forest Service program managers and allow at least 60 days for review and acceptance.

(b) At closing, record a Notice of Grant Requirement with the deed in the lands record of the local county or municipality. This document must:

(1) State that the property (including cost share tracts) was purchased with Community Forest Program funds;

(2) Provide a legal description;

(3) Identify the name and address of the grant recipient who is the authorized title holder;

(4) State the purpose of the Community Forest Program;

(5) Reference the Grant Agreement with the Forest Service (title and agreement number) and the address where it is kept on file;

(6) State that the grant recipient confirms its obligation to manage the interest in real property pursuant to the grant, the Community Forest Plan, and the purpose of the Community Forest Program;

(7) State that the community forest may not be sold and will not be conveyed or transferred to another eligible entity or encumbered in whole or in part, to another party without permission and instructions from the Forest Service; and

(8) State that the grant recipient will manage the interest in real property consistent with the purpose of the Community Forest Program.

§ 230.9 Ownership and use requirements.

(a) Grant recipients shall submit a final Community Forest Plan for Forest Service review within 120 days of the land acquisition and update the plan periodically to guide the management and use of the community forest.

(b) Grantees are encouraged to work with their State Forester or equivalent official of their Indian Tribe for technical assistance when developing or updating the Community Forest Plan. In addition, eligible entities are encouraged to work with technical specialists such as professional foresters, recreation specialists, wildlife biologists, and outdoor education specialists when developing Community Forest Plans.

(c) Grant recipients shall provide public access in accordance with the Community Forest Plan.

(d) Recipients must manage the property in a manner consistent with the purposes of the Community Forest Program. In the event that a grant recipient sells or converts a parcel of land acquired under the Community Forest Program to nonforest uses or any use inconsistent with the purposes of the Community Forest Program, the grant recipient shall:

(1) Pay the United States an amount equal to the current sale price or the current appraised value of the parcel, whichever is greater. For the purposes of the calculation in this paragraph (d)(1), the parcel's appraised value will be the parcel's full fair market value. The impact of subsequent encumbrances, such as the imposition of conservation easements consistent with the purposes of the Community Forest Program, will not be considered in appraising the parcel's fair market value; and

(2) Not be eligible for additional grants under the Community Forest Program.

(e) For Indian Tribes, land acquired using a grant provided under the Community Forest Program must not be sold, converted to nonforest uses or a use inconsistent with the purpose of the Community Forest Program, or converted to land held in trust by the United States on behalf of any Indian Tribe.

(f) Every five years, grant recipients shall submit a self-certifying statement to the regional Forest Service Program Manager confirming that the property has not been sold or converted to nonforest uses or a use inconsistent with the purpose of the Community Forest Program.

(g) Grant recipients are subject to periodic spot checks conducted by the Forest Service to verify that property acquired under the Community Forest Program has not been sold or converted to nonforest uses or any use inconsistent with the purpose of the Community Forest Program and that the current Community Forest Plan complies with defined minimum requirements in § 230.2.

§ 230.10 Technical assistance funds.

Community Forest Program technical assistance funds may be provided to State Foresters or equivalent officials of Indian Tribes through an administrative grant to help implement projects funded through the Community Forest Program. These funds do not have a cost share requirement. Section 7A(f) of the authorizing statute limits the funds allocated to State Foresters or equivalent officials of Indian Tribes for program administration and technical assistance to no more than 10% of all funds made available to carry out the program for each fiscal year. Funds will only be provided to States or Indian Tribes that:

(a) Have a Community Forest Program project funded within their jurisdiction; and

(b) Indicate the financial need and purpose of technical assistance in their Community Forest Program application.

Dated: March 29, 2021.

Chris French,

Acting Deputy Under Secretary, Natural Resources and Environment.

[FR Doc. 2021–06757 Filed 4–1–21; 8:45 am]

BILLING CODE 3411–15–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 25

[GN Docket Nos. 18–122; FCC 20–22; FRS 18976]

Expanding Flexible Use of the 3.7 to 4.2 GHz Band

AGENCY: Federal Communications Commission.

ACTION: Final rule; announcement of compliance date.

SUMMARY: In this document, the Commission announces that the Office of Management and Budget (OMB) has approved information collection requirements associated with the transition of operations in one frequency band to another, adopted in the Federal Communications Commission's (Commission) *3.7 GHz Report and Order,* FCC 20–22, and that compliance with the new rules is now required. This document is consistent with the *3.7 GHz Report and Order,* FCC 20–22, which states that the Commission will publish a document in the **Federal Register** announcing a compliance date for the new rule sections and revise the Commission's rules accordingly.

DATES: Compliance with 47 CFR 25.138(a) and (b) and 25.147(a) through (c), published at 85 FR 22804 on April 23, 2020, is required on April 2, 2021.

FOR FURTHER INFORMATION CONTACT: Kerry Murray, Satellite Division, International Bureau, at (202) 418–0734 or *Kerry.Murray@fcc.gov.*

SUPPLEMENTARY INFORMATION: This document announces that OMB approved the information collection requirements in 47 CFR 25.138(a) and (b) and 25.147(a) through (c), on March 24, 2021. These rules were adopted in the *3.7 GHz Report and Order,* FCC 20–22, published at 85 FR 22804 on April 23, 2020. The Commission publishes this document as an announcement of the compliance date of these new rules.

If you have any comments on the burden estimates listed below, or how the Commission can improve the collections and reduce any burdens caused thereby, please contact Cathy Williams, Federal Communications Commission, Room 1–C823, 445 12th Street SW, Washington, DC 20554, regarding OMB Control Number 3060–0678. Please include the OMB Control Number in your correspondence. The Commission will also accept your comments via email at *PRA@fcc.gov.*

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

Synopsis: As required by the Paperwork Reduction Act of 1995 (44 U.S.C. 3507), the FCC is notifying the public that it received final OMB approval on March 24, 2021, for the information collection requirements contained in 47 CFR 25.138 and 25.147. Under 5 CFR part 1320, an agency may not conduct or sponsor a collection of information unless it displays a current, valid OMB Control Number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act that does not display a current, valid OMB Control Number. The OMB Control Number for the information collection requirements in 47 CFR 25.138 and 25.147, is 3060–0678. The foregoing notice is required by the Paperwork Reduction Act of 1995, Public Law 104–13, October 1, 1995.

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

OMB Control Number: 3060–0678.

OMB Approval Date: March 24, 2021.

OMB Expiration Date: March 31, 2024.

Title: Part 25 of the Federal Communications Commission's Rules Governing the Licensing of, and Spectrum Usage By, Commercial Earth Stations and Space Stations.

Form Number: FCC Form 312—Schedule A, FCC Form 312—Main, FCC Form 312—Schedule B, FCC Form 312–R, FCC Form 312–EZ.

Respondents: Business or other for-profit entities and Not-for-profit institutions.

Number of Respondents and Responses: 6,524 respondents; 6,573 responses.

Estimated Time per Response: 0.5–80 hours.

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

Obligation to Respond: Required to obtain or retain benefits. The Commission has statutory authority for the information collection requirements under 47 U.S.C. 154, 301, 302, 303, 307, 309, 310, 319, 332, 605, and 721.

Total Annual Burden: 44,988 hours.

Total Annual Cost: $16,612,586.

Privacy Impact Assessment: No impact(s).

Nature and Extent of Confidentiality: There is no need for confidentiality pertaining to the information collection requirements in this collection, in accordance with the Commission's rules, 47 CFR 0.459.

Needs and Uses: On March 3, 2020, the Commission released a Report and Order and Order of Proposed Modification, FCC 20–22, GN Docket No. 18–122, titled ''Expanding Flexible Use of the 3.7 to 4.2 GHz Band.'' In this Report and Order and Order of Proposed Modification, the Commission updated its rules by reforming the use of the 3.7–4.2 GHz band, also known as the C-Band. The new rules repack existing satellite operations into the upper 200 megahertz of the band (and reserve a 20 megahertz guard band), making a significant amount of spectrum—280 megahertz or more than half of the band—available for flexible use throughout the contiguous United States. The relevant rule revisions for purposes of this information collection are the addition of §§ 25.138 and 25.147 of the Commission's rules. In updating this information collection, we are not accounting for any changes to the number of respondents, burden hours, and annual cost related to these rule revisions since the addition of §§ 25.138 and 25.147 set forth rules for transition of operations from one frequency band to another.

Federal Communications Commission.

Marlene Dortch,

Secretary, Office of the Secretary.

[FR Doc. 2021–06868 Filed 4–1–21; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF HOMELAND SECURITY

48 CFR Parts 3001, 3002, 3003, 3004, 3005, 3006, 3007, 3009, 3010, 3011, 3012, 3013, 3015, 3016, 3017, 3018, 3019, 3022, 3023, 3024, 3025, 3027, 3028, 3030, 3031, 3032, 3033, 3034, 3035, 3036, 3037, 3042, 3046, 3047, 3052, and 3053

[HSAR Case 2016–001]

Homeland Security Acquisition Regulation; Administrative Matters

AGENCY: Office of the Chief Procurement Officer, Department of Homeland Security (DHS).

ACTION: Final rule.

SUMMARY: This final rule amends the Homeland Security Acquisition Regulation (HSAR) to conform references throughout the HSAR to the Positive Law Codification of Title 41, and to provide needed editorial changes. This final rule does not alter substantive rights or obligations under current law.

DATES: This final rule is effective on May 3, 2021.

FOR FURTHER INFORMATION CONTACT: Nancy Harvey, Procurement Analyst, DHS, Office of the Chief Procurement Officer, Acquisition Policy and Legislation, (202) 642–0500 or email *HSAR@hq.dhs.gov.* When using email, include HSAR Case 2016–001 in the ''Subject'' line.

SUPPLEMENTARY INFORMATION:

I. Background

On January 4, 2011, Public Law 111–350 enacted a new codified version of Title 41 United States Code (U.S.C.), entitled ''Public Contracts.'' The purpose of this final rule is to update all references to Title 41 in the HSAR to conform to the positive law codification and to implement technical updates throughout the HSAR. The HSAR establishes uniform policies and procedures for all acquisition activities within DHS. The edits made by this rule are entirely administrative and technical in nature and will not result in any substantive effects on DHS or other entities.

II. Discussion and Analysis

DHS amends the HSAR as follows:

1. Numerous corrections to authority citations to conform the HSAR to the Positive Law Codification of Title 41, United States Code, ''Public Contracts.'' The codification of Title 41 was enacted on January 4, 2011.

2. Other technical corrections not as a result of the Title 41 recodification, include the following:

a. The position title ''Contracting Officer's Technical Representative'' is replaced with ''Contracting Officer's Representative'', and the abbreviation ''COTR'' is replaced with ''COR'' throughout the HSAR for consistency with the FAR.

b. Section 3001.105–2 is revised to add U.S. Citizenship and Immigration Services as a DHS Component;

c. Section 3001.105–3 is revised to remove an outdated Uniform Resource Locator (URL) and clarify where to access the HSAR in electronic form.

d. Section 3001.304 is revised to:

1. In paragraph (a), make editorial changes to clarify the Component procedures for incorporating Component-specific regulations or provisions and clauses the Component intends to use on a repetitive basis into the HSAR. The term ''supplement'' is used in paragraph (a) multiple times and in different ways, making the instructions difficult to follow. In addition, the text is clarified to specify who signs Component-specific regulations, as well as other internal procedures.

2. In paragraph (c), make editorial changes to clarify that the HSAR is the agency acquisition regulation for which the CPO approves the incorporation of proposed regulatory coverage.

e. Section 3002.101 is revised to (1) identify, in the definition of Component, U.S. Citizenship and Immigration Services (USCIS) as a DHS Component; (2) add the title of the Head of the Contracting Activity (HCA) for USCIS to the list of DHS HCAs; (3) clarify the definition of legal counsel to include Component legal offices; and (4) update the definition of Senior Procurement Executive for consistency with DHS delegations.

f. Section 3002.270 is revised to:

1. Remove ''COTR Contracting Officer's Technical Representative''. The abbreviation and term are obsolete.

2. Remove ''KO Contracting officer.'' The abbreviation does not appear in the HSAR.

g. Section 3003.101–3 is amended to add a reference to the more recently issued DHS supplemental ethics regulation at 5 CFR part 4601.

h. Section 3003.1003, paragraph (a), is revised to add a direct link to the electronic contractor disclosure form.

i. Section 3005.9000 is revised to remove the reference to 6 U.S.C. 552(d). Section 3005.9000 covers publicizing United States Coast Guard (USCG) personal services contracts. USCG is authorized to issue personal services contracts for medical and dental care under 10 U.S.C. 1091. Section 1091, however, during the early transition period of DHS, identified USCG as a Department of Transportation component. During this transition period, 6 U.S.C. 552(d) was used to identify newly transferred Components that appeared in statutes, documents, executive orders, regulations, etc., as part of other agencies, as DHS Components. Section 1091 has since been revised and now the USCG correctly appears under the jurisdiction of DHS. As a result, the reference to 6 U.S.C. 552(d) in this section is no longer necessary.

j. In section 3006.302–270, paragraphs (d)(1)(iii)(A) and (B), the reference to *http://www.fema.gov/news/disasters.fema#sev2* is removed as the page no longer exists and the link is unnecessary.

k. Section 3009.108–7005 is revised to replace ''Clause'' in the section header with ''Provision'', and to remove ''and contracts'' at the end of the paragraph. In accordance with FAR part 2, Definitions, a *contract clause* is a term or condition used in contracts or in both solicitations and contracts, that apply after contract award or both before and after award. Alternatively, a *provision* is a term or condition used only in solicitations and that applies only before contract award. Section 3009.108–7005 prescribes instructions covering the use of section 3052.209–70, and references it as a clause. However, section 3052.209–70 is a provision because it is a term that is used only in solicitations, before contract award. For this reason, the reference in section 3009.108–7005 to section 3052.209–70 as a provision in all solicitations *and contracts* is inaccurate.

l. Section 3009.470–1 is revised to correct the spelling of ''sub-elements.''

m. Section 3009.507–1 is revised to replace ''provision'' in the header and in the first sentence, to read ''clause.'' As noted above, in accordance with FAR part 2, Definitions, a *contract clause* is a term or condition used in contracts or in both solicitations and contracts, that apply after contract award or both before and after award. Alternatively, a *provision* is a term or condition used only in solicitations and that applies only before contract award. Section 3009.507–1 prescribes instructions covering the use of section 3052.209–72, and references it as a provision. However, section 3052.209–72 is a clause because it is a term that is used in both solicitations and contracts, that is, both before and after contract award. For this reason, the reference in section

3009.507–1 to section 3052.209–70 as a provision is inaccurate.

n. Subpart 3011.6, consisting of section 3011.602, is removed and reserved. DHS Delegation 9053, Delegation of Authority Regarding the Defense Priorities and Allocations System, delegates certain authorities under the Department of Commerce's Defense Priorities and Allocations System (DPAS) Delegation 4 to designated officials within DHS. Subpart 3011.6 does not list all of the enumerated parties in the Delegation. Because this guidance is already included in DHS Delegation 9053, this subpart is no longer needed.

o. Section 3018.109 is revised to remove ''(See (HSAR) 48 CFR 3011.602.)'' for consistency with the revisions described above with respect to 48 CFR 3011.602.

p. Section 3022.101–70, paragraph (b), is revised to replace the word ''coordinator'' with ''advisor'' in the first sentence to correct the DHS labor advisor's position title.

q. Section 3022.406–9, paragraph (c)(1) is amended to replace ''Comptroller General'' with ''Secretary of Labor'', and to remove the last sentence of the paragraph in its entirety. FAC 2005–78, effective December 16, 2014, amended FAR 22.406–9 to implement Public Law 113–50, which transferred certain authorities for construction wage under-payments from the Government Accountability Office to the Department of Labor by requiring that wage underpayments be sent to the Secretary of Labor, and by removing standard form (SF) 1093 from the FAR.

r. Section 3023.1004 is amended to (1) correct the titles of ''DHS Directive 023–02 Environmental Compliance Program'' and ''DHS Directive 025–01, Sustainable Practices for Environmental Energy and Transportation.'' The correct titles are, respectively, ''DHS Directive 023–02, Environmental Management Program'' and ''DHS Directive 025–01, Sustainable Practices.'' In addition, in the second sentence, the rule is amended to (a) replace the term ''green purchasing'' with ''sustainable acquisition'' for consistency with FAR part 23 and DHS Directive 025–01, and (b) remove a reference to an obsolete Executive Order.

s. Section 3024.203 is revised to add an ''s'' at the end of the word ''request''.

t. Section 3033.211 is revised to clarify the methods of delivery for submitting claims or disputes to the Civilian Board of Contract Appeals (CBCA).

u. Section 3046.790–2 is amended in the definition for ''At no additional cost to the Government'' to add a hyphen between ''fixed'' and ''price''.

v. For part 3052:

(1) Section 3052.101 is amended to, in the Note, update a URL and remove an outdated reference.

(2) Section 3052.203–70 is revised to clarify the instructions for submitting disclosures of violations and the method for submitting disclosures.

(3) Section 3052.209–70 is revised in the introductory paragraph, in the introductory paragraph for paragraph (b), and at the end of the provision, to remove ''clause'' and replace it with ''provision''.

(4) Section 3052.209–71, paragraph (a), is revised to correct the spelling of ''sub-elements''.

(5) Section 3052.209–72 is revised to remove the word ''provision'', and replace it with the word ''clause'' in the introductory paragraph, and in paragraphs (c), (d) and (f). In accordance with FAR part 2, Definitions, a *contract clause* is a term or condition used in contracts or in both solicitations and contracts, that applies after contract award or both before and after award. Alternatively, a *provision* is a term or condition used only in solicitations and that applies only before contract award. Section 3052.209–72, paragraphs (f) and (g), prescribe terms to which the contractor must comply post-award. Therefore, section 3052.209–72 is a clause.

(6) The lists in section 3052.212–70 are corrected to properly identify provisions and clauses. Section 3052.212–70 is also corrected to add 3052.205–70, Alternate I, to the list of provisions and clauses. While section 3052.205–70 is listed, 3052.205–70, Alternate I, is not. Because section 3052.205–70 is listed, its alternate must be as well.

(7) Section 3052.217–96, in paragraph (b), is revised to remove ''s'' at the end of the term ''equipments''.

(8) Section 3052.219–71, in the introductory paragraph, is revised to redesignate the paragraph for consistency with HSAR Case 2017–001, Rescinding Department of Homeland Security Acquisition Regulation (HSAR) Clause 3052.219–70, Small Business Subcontracting Plan Reporting.

(9) Section 3052.219–72, in the introductory paragraph, is revised to redesignate the paragraph for consistency with HSAR Case 2017–001, Rescinding Department of Homeland Security Acquisition Regulation (HSAR) Clause 3052.219–70, Small Business Subcontracting Plan Reporting.

w. Section 3053.303 is amended to update the URL to access DHS forms.

III. Notice and Comment

This rule makes administrative changes that do not require notice and comment procedures, consistent with 41 U.S.C. 1707, 48 CFR 1.301, and related authority. The changes will not have a significant effect on any party, and will not have a significant cost or administrative impact on contractors or offerors.

IV. Executive Orders 12866 and 13563

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

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.

DHS has determined that the rule will not create an economic impact. The changes made by this rule are entirely administrative and technical in nature and will not result in any substantive effects on DHS or other entities.

V. Regulatory Flexibility Act

As noted above, the administrative changes made by this rule do not require notice-and-comment rulemaking. Accordingly, the procedural requirements of the Regulatory Flexibility Act do not apply. *See* 5 U.S.C. 604, 48 CFR 1.301(c).

VI. Paperwork Reduction Act

This final rule does not contain any information collection requirements that require the approval of the Office of Management and Budget under the Paperwork Reduction Act (44 U.S.C. Chapter 35).

List of Subjects

48 CFR Parts 3001, 3002, 3003, 3004, 3005, 3006, 3007, 3009, 3010, 3011, 3012, 3013, 3015, 3016, 3017, 3018, 3019, 3022, 3023, 3024, 3025, 3027, and 3028

Government procurement.

48 CFR Parts 3030, 3031, and 3032

Accounting, Government procurement.

48 CFR Parts 3033, 3034, 3035, 3036, and 3037

Government procurement.

48 CFR Part 3042

Accounting, Government procurement.

48 CFR Part 3046, 3047, 3052, and 3053

Government procurement.

Soraya Correa,

Chief Procurement Officer, Department of Homeland Security.

For reasons set out in the preamble, DHS amends chapter 30 of title 48 of the Code of Federal Regulations as set forth below.

PART 3001—FEDERAL ACQUISITION REGULATIONS SYSTEM

■ 1. Revise the authority citation for part 3001 to read as follows:

Authority: 5 U.S.C. 301–302, 41 U.S.C. 1303, 41 U.S.C. 1707, 41 U.S.C. 1702, and 48 CFR subpart 1.3.

■ 2. Amend section 3001.105–2 by adding an entry in alphabetical order for ''U.S. Citizenship and Immigration Services (USCIS)'' in paragraph (a) to read as follows:

3001.105–2 Arrangement of regulations.

(a) * * *

U.S. Citizenship and Immigration Services (USCIS);

* * * * *

■ 3. Revise section 3001.105–3 to read as follows:

3001.105–3 Copies.

Official versions of the HSAR are available in the Code of Federal Regulations, as supplemented and revised from time to time by the **Federal Register**, both of which are available from the Government Publishing Office in paper form. The HSAR is also available in electronic form at *https://www.ecfr.gov/*. The Homeland Security Acquisition Manual (HSAM), which complements the HSAR, can also be found at *http://www.dhs.gov.*

■ 4. Revise section 3001.304 to read as follows:

3001.304 Agency control and compliance procedures.

(a) The HSAR is under the direct oversight and control of the DHS, Office of the Chief Procurement Officer (OCPO), which is responsible for evaluation, review, and issuance of all Department-wide acquisition regulations and guidance in accordance with DHS regulatory clearance procedures, as applicable. Each HCA may supplement the HSAR with internal Component issued guidance that does not go beyond internal operating procedures and does not have a significant cost or administrative impact on contractors or offerors. Supplementation should be kept to a minimum. Any Component that seeks a component-specific regulation or that intends to use a solicitation provision or a contract clause on a repetitive basis must prepare and coordinate a draft rule with Component legal counsel and obtain HCA approval, which is non delegable. The HCA must forward the draft rule to the CPO for concurrence prior to further action in accordance with DHS regulatory clearance procedures. If approved, the CPO or designee, will sign the Component-specific regulation and it will be integrated into the HSAR.

(b) [Reserved]

(c) The CPO is responsible for evaluating all proposed regulatory coverage in the HSAR to determine if the substance could apply to other agencies and to make recommendation for inclusion in the FAR.

PART 3002—DEFINITIONS OF WORDS AND TERMS

■ 5. Revise the authority citation for part 3002 to read as follows:

Authority: 5 U.S.C. 301–302, 41 U.S.C. 1303, 41 U.S.C. 1707, 41 U.S.C. 1702, and 48 CFR subpart 1.3.

■ 6. Amend section 3002.101 by revising the definitions of ''Component'', ''Head of the Contracting Activity (HCA)'', ''Legal counsel'', and ''Senior Procurement Executive (SPE) for the Department of Homeland Security'' to read as follows:

3002.101 Definitions.

* * * * *

Component means the following entities for purposes of this chapter:

(1) DHS Management (MGMT), including the Office of Procurement Operations (OPO) and the Office of Selective Acquisitions (OSA);

(2) Federal Emergency Management Agency (FEMA);

(3) Federal Law Enforcement Training Center (FLETC);

(4) Transportation Security Administration (TSA);

(5) U.S. Citizenship and Immigration Services (USCIS);

(6) U.S. Coast Guard (USCG);

(7) U.S. Customs and Border Protection (CBP);

(8) U.S. Immigration and Customs Enforcement (ICE); and

(9) U.S. Secret Service (USSS).

* * * * *

Head of the Contracting Activity (HCA) means the official who has overall responsibility for managing the contracting activity. For DHS, the HCAs are:

(1) Director, Office of Procurement Operations (OPO);

(2) Director, Office of Selective Acquisitions (OSA);

(3) Director, Office of Acquisition Management (FEMA);

(4) Chief, Procurement Division (FLETC);

(5) Assistant Administrator for Contracting & Procurement (TSA);

(6) Chief, Office of Contracting (USCIS);

(7) Director of Contracting and Procurement (USCG);

(8) Deputy Assistant Commissioner, Office of Acquisition (CBP);

(9) Director, Office of Acquisition Management (ICE); and

(10) Chief, Procurement Operations (USSS).

* * * * *

Legal counsel means the Department of Homeland Security Office of the General Counsel, which includes Component offices providing legal services to the contracting organization.

* * * * *

Senior Procurement Executive (SPE) for the Department of Homeland Security means the individual appointed pursuant to 41 U.S.C. 1702(c). The SPE is responsible for the management direction of the procurement system of DHS, including implementation of the unique procurement policies, regulations, and standards of DHS. The DHS Chief Procurement Officer (CPO) is the SPE for DHS and is the only individual within DHS that bears the title of the CPO.

* * * * *

3002.270 [Amended]

■ 7. Amend section 3002.270 by removing the entries for ''COTR Contracting Officer's Technical Representative'' and ''KO Contracting officer'' from the list.

PART 3003—IMPROPER BUSINESS PRACTICES AND PERSONAL CONFLICTS OF INTEREST

■ 8. Revise the authority citation for part 3003 to read as follows:

Authority: 5 U.S.C. 301–302, 41 U.S.C. 1303, 41 U.S.C. 1707, 41 U.S.C. 1702, and 48 CFR subpart 1.3.

3003.101–3 [Amended]

■ 9. Amend 3003.101–3 by removing the words ''Management Directive

0480.1, Ethics/Standards of Conduct'' and adding the words ''a supplemental ethics regulation at 5 CFR part 4601 and Management Directive 0480.1, Ethics/Standards of Conduct'' in their place.

3003.1003 [Amended]

■ 10. Amend 3003.1003, in paragraph (a), by adding ''or *https://www.oig.dhs.gov/reports/publications/annual/contractor-disclosure*'' after ''*http://www.oig.dhs.gov*''.

PART 3004—ADMINISTRATIVE MATTERS

■ 11. Revise the authority citation for part 3004 to read as follows:

Authority: 5 U.S.C. 301–302, 41 U.S.C. 1303, 41 U.S.C. 1707, 41 U.S.C. 1702, and 48 CFR subpart 1.3.

PART 3005—PUBLICIZING CONTRACT ACTIONS

■ 12. Revise the authority citation for part 3005 to read as follows:

Authority: 5 U.S.C. 301–302, 41 U.S.C. 1303, 41 U.S.C. 1707, 41 U.S.C. 1702, and 48 CFR subpart 1.3.

3005.9000 [Amended]

■ 13. Amend section 3005.9000 by removing ''as amended by section 1512(d) of the Homeland Security Act, 6 U.S.C. 552(d),''.

PART 3006—COMPETITION REQUIREMENTS

■ 14. Revise the authority citation for part 3006 to read as follows:

Authority: 5 U.S.C. 301–302, 41 U.S.C. 1303, 41 U.S.C. 1707, 41 U.S.C. 1702, and 48 CFR subpart 1.3.

3006.302–270 [Amended]

■ 15. Amend section 3006.302–270, in paragraphs (d)(1)(iii)(A) and (B), by removing ''(see *http://www.fema.gov/news/disasters.fema#sev2* for a list of declarations)''.

PART 3007—ACQUISITION PLANNING

■ 16. Revise the authority citation for part 3007 to read as follows:

Authority: 5 U.S.C. 301–302, 41 U.S.C. 1303, 41 U.S.C. 1707, 41 U.S.C. 1702, and 48 CFR subpart 1.3.

PART 3009—CONTRACTOR QUALIFICATIONS

■ 17. Revise the authority citation for part 3009 to read as follows:

Authority: 5 U.S.C. 301–302, 41 U.S.C. 1303, 41 U.S.C. 1707, 41 U.S.C. 1702, and 48 CFR subpart 1.3.

■ 18. Amend section 3009.108–7005 by:

■ a. Revising the section heading; and

■ b. Removing the words ''and contracts'' at the end of the section.

The revision reads as follows:

3009.108–7005 Provision.

* * * * *

3009. 470–1 [Amended]

■ 19. Amend 3009.470–1 by removing ''subelements'' and adding ''sub-elements'' in its place.

■ 20. Amend 3009.507–1 by:

■ a. Revising the section heading; and

■ b. Removing the word ''provision'' in the first sentence and adding the word ''clause'' in its place.

The revision reads as follows:

3009. 507–1 Solicitation clause.

* * * * *

PART 3011—DESCRIBING AGENCY NEEDS

■ 21. Revise the authority citation for part 3011 to read as follows:

Authority: 5 U.S.C. 301–302, 41 U.S.C. 1303, 41 U.S.C. 1707, 41 U.S.C. 1702, and 48 CFR subpart 1.3.

Subpart 3011–6 [Removed and Reserved]

■ 22. Subpart 3011.6, consisting of section 3011.602, is removed and reserved.

PART 3012—ACQUISITION OF COMMERCIAL ITEMS

■ 23. Revise the authority citation for part 3012 to read as follows:

Authority: 5 U.S.C. 301–302, 41 U.S.C. 1303, 41 U.S.C. 1707, 41 U.S.C. 1702, and 48 CFR subpart 1.3.

PART 3013—[REMOVED AND RESERVED]

■ 24. Under the authority of 41 U.S.C. 1702, part 3013 is removed and reserved.

PART 3015—CONTRACTING BY NEGOTIATION

■ 25. Revise the authority citation for part 3015 to read as follows:

Authority: 5 U.S.C. 301–302, 41 U.S.C. 1303, 41 U.S.C. 1707, 41 U.S.C. 1702, and 48 CFR subpart 1.3.

PART 3016—TYPES OF CONTRACTS

■ 26. Revise the authority citation for part 3016 to read as follows:

Authority: 5 U.S.C. 301–302, 41 U.S.C. 1303, 41 U.S.C. 1707, 41 U.S.C. 1702, and 48 CFR subpart 1.3.

PART 3017—SPECIAL CONTRACTING METHODS

■ 27. Revise the authority citation for part 3017 to read as follows:

Authority: 5 U.S.C. 301–302, 41 U.S.C. 1303, 41 U.S.C. 1707, 41 U.S.C. 1702, and 48 CFR subpart 1.3.

PART 3018—EMERGENCY ACQUISITIONS

■ 28. Revise the authority citation for part 3018 to read as follows:

Authority: 5 U.S.C. 301–302, 41 U.S.C. 1303, 41 U.S.C. 1707, 41 U.S.C. 1702, and 48 CFR subpart 1.3.

3018.109 [Amended]

■ 29. Amend 3018.109 by removing ''(See (HSAR) 48 CFR 3011.602.)''.

PART 3019—SMALL BUSINESS PROGRAMS

■ 30. Revise the authority citation for part 3019 to read as follows:

Authority: 5 U.S.C. 301–302, 41 U.S.C. 1303, 41 U.S.C. 1707, 41 U.S.C. 1702, and 48 CFR subpart 1.3.

PART 3022—APPLICATION OF LABOR LAWS TO GOVERNMENT ACQUISITIONS

■ 31. Revise the authority citation for part 3022 to read as follows:

Authority: 5 U.S.C. 301–302, 41 U.S.C. 1303, 41 U.S.C. 1707, 41 U.S.C. 1702, and 48 CFR subpart 1.3.

3022.101–70 [Amended]

■ 32. Amend 3022.101–70, in the first sentence in paragraph (b), by removing ''DHS labor coordinator'' and adding ''DHS labor advisor'' in its place.

■ 33. Amend 3022.406–9 by revising paragraph (c)(1) to read as follows:

3022.406–9 Withholding from or suspension of contract payments.

(c) * * *

(1) Forwarding wage underpayments to the Secretary of Labor. The contracting officer shall ensure that a completed DHS Form 700–4, Employee Claim for Wage Restitution, is obtained from each employee claiming restitution under the contract.

PART 3023—ENVIRONMENT, ENERGY AND WATER EFFICIENCY, RENEWABLE ENERGY TECHNOLOGIES, OCCUPATIONAL SAFETY, AND DRUG-FREE WORKPLACE

■ 34. Revise the authority citation for part 3023 to read as follows:

Authority: 5 U.S.C. 301–302, 41 U.S.C. 1303, 41 U.S.C. 1707, 41 U.S.C. 1702, and 48 CFR subpart 1.3.

■ 35. Revise section 3023.1004 to read as follows:

3023.1004 Requirements.

DHS Directive 023–02, Environmental Management Program, provides guidance and direction for compliance with environmental laws, regulations and executive orders. DHS Directive 025–01, Sustainable Practices, provides guidance and direction for compliance with sustainable acquisition and other sustainable practices. Contracting officers shall ensure that solicitations and contracts contain appropriate sustainable practices requirements, provisions and clauses. Contractors shall comply with the DHS sustainable acquisition and environmental policy by taking appropriate actions to eliminate or reduce their impacts on the environment.

PART 3024—PROTECTION OF PRIVACY AND FREEDOM OF INFORMATION

■ 36. Revise the authority citation for part 3024 to read as follows:

Authority: 5 U.S.C. 301–302, 41 U.S.C. 1303, 41 U.S.C. 1707, 41 U.S.C. 1702, and 48 CFR subpart 1.3.

3024.203 [Amended]

■ 37. Amend section 3024.203, in the second sentence in paragraph (a), by removing ''request'' and adding ''requests'' in its place.

PART 3025—FOREIGN ACQUISITION

■ 38. Revise the authority citation for part 3025 to read as follows:

Authority: 5 U.S.C. 301–302, 41 U.S.C. 1303, 41 U.S.C. 1707, 41 U.S.C. 1702, and 48 CFR subpart 1.3.

PART 3027—PATENTS, DATA, AND COPYRIGHTS

■ 39. Revise the authority citation for part 3027 to read as follows:

Authority: 5 U.S.C. 301–302, 41 U.S.C. 1303, 41 U.S.C. 1707, 41 U.S.C. 1702, and 48 CFR subpart 1.3.

PART 3028—BONDS AND INSURANCE

■ 40. Revise the authority citation for part 3028 to read as follows:

Authority: 5 U.S.C. 301–302, 41 U.S.C. 1303, 41 U.S.C. 1707, 41 U.S.C. 1702, and 48 CFR subpart 1.3.

PART 3030—COST ACCOUNTING STANDARDS ADMINISTRATION

■ 41. Revise the authority citation for part 3030 to read as follows:

Authority: 5 U.S.C. 301–302, 41 U.S.C. 1303, 41 U.S.C. 1707, 41 U.S.C. 1702, and 48 CFR subpart 1.3.

PART 3031—CONTRACT COST PRINCIPLES AND PROCEDURES

■ 42. Revise the authority citation for part 3031 to read as follows:

Authority: 5 U.S.C. 301–302, 41 U.S.C. 1303, 41 U.S.C. 1707, 41 U.S.C. 1702, and 48 CFR subpart 1.3.

PART 3032—CONTRACT FINANCING

■ 43. Revise the authority citation for part 3032 to read as follows:

Authority: 5 U.S.C. 301–302, 41 U.S.C. 1303, 41 U.S.C. 1707, 41 U.S.C. 1702, and 48 CFR subpart 1.3.

PART 3033—PROTESTS, DUTIES, AND APPEALS

■ 44. Revise the authority citation for part 3033 to read as follows:

Authority: 5 U.S.C. 301–302, 41 U.S.C. 1303, 41 U.S.C. 1707, 41 U.S.C. 1702, and 48 CFR subpart 1.3.

■ 45. Revise section 3033.211 to read as follows:

3033.211 Contracting officer's decision.

For DHS contracts, the Board of Contract Appeals (BCA) noted in (FAR) 48 CFR 33.211 is the Civilian Board of Contract Appeals (CBCA). The Board's address for each method of filing is as follows:

(a) *For e-file: cbca.efile@cbca.gov.*

(b) *U.S. Postal Service Mail:* 1800 F Street NW, Washington, DC 20405.

(c) *Overnight or Courier Delivery:* 1800 M Street NW, Room 600 South, Washington, DC 20036.

PART 3034—MAJOR SYSTEM ACQUISITION

■ 46. Revise the authority citation for part 3034 to read as follows:

Authority: 5 U.S.C. 301–302, 41 U.S.C. 1303, 41 U.S.C. 1707, 41 U.S.C. 1702, and 48 CFR subpart 1.3.

PART 3035—RESEARCH AND DEVELOPMENT CONTRACTING

■ 47. Revise the authority citation for part 3035 to read as follows:

Authority: 5 U.S.C. 301–302, 41 U.S.C. 1303, 41 U.S.C. 1707, 41 U.S.C. 1702, and 48 CFR subpart 1.3.

PART 3036—CONSTRUCTION AND ARCHITECT-ENGINEER CONTRACTS

■ 48. Revise the authority citation for part 3036 to read as follows:

Authority: 5 U.S.C. 301–302, 41 U.S.C. 1303, 41 U.S.C. 1707, 41 U.S.C. 1702, and 48 CFR subpart 1.3.

PART 3037—SERVICE CONTRACTING

■ 49. Revise the authority citation for part 3037 to read as follows:

Authority: 5 U.S.C. 301–302, 41 U.S.C. 1303, 41 U.S.C. 1707, 41 U.S.C. 1702, and 48 CFR subpart 1.3.

PART 3042—CONTRACT ADMINISTRATION AND AUDIT SERVICES

■ 50. Revise the authority citation for part 3042 to read as follows:

Authority: 5 U.S.C. 301–302, 41 U.S.C. 1303, 41 U.S.C. 1707, 41 U.S.C. 1702, and 48 CFR subpart 1.3.

Subpart 3042.70 Contracting Officer's Representative

■ 51. Revise the heading for subpart 3042.70 to read as set forth above.

3042.7000 [Amended]

■ 52. Amend section 3042.7000 by removing ''Contracting Officer's Technical Representative'' and adding ''Contracting Officer's Representative'' in its place.

PART 3046—QUALITY ASSURANCE

■ 53. Revise the authority citation for part 3046 to read as follows:

Authority: 5 U.S.C. 301–302, 41 U.S.C. 1303, 41 U.S.C. 1707, 41 U.S.C. 1702, and 48 CFR subpart 1.3.

3046.790–2 [Amended]

■ 54. Amend section 3046.790–2, in the definition of ''At no additional cost to the Government'', by removing ''fixed price'' and adding ''fixed-price'' in its place.

PART 3047—TRANSPORTATION

■ 55. Revise the authority citation for part 3047 to read as follows:

Authority: 5 U.S.C. 301–302, 41 U.S.C. 1303, 41 U.S.C. 1707, 41 U.S.C. 1702, and 48 CFR subpart 1.3.

PART 3052—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

■ 56. Revise the authority citation for part 3052 to read as follows:

Authority: 5 U.S.C. 301–302, 41 U.S.C. 1303, 41 U.S.C. 1707, 41 U.S.C. 1702, and 48 CFR subpart 1.3.

3052.101 [Amended]

■ 57. Amend section 3052.101, in the note to 3052.101, by removing ''*http://www.dhs.gov/xopnbiz/* under Policy and Regulations, Homeland Security Acquisition Regulation (HSAR)'' and adding ''*https://www.dhs.gov/publication/hsar-provision-and-clause-matrix*'' in its place.

■ 58. Revise 3052.203–70 to read as follows:

3052.203–70 Instructions for Contractor Disclosure of Violations.

As prescribed in (HSAR) 48 CFR 3003.1004(a), insert the following clause:

Instructions for Contractor Disclosure of Violations (Sep 2012)

When making a written disclosure under the clause at FAR 52.203–13, paragraph (b)(3), the Contractor may submit the disclosure to the Department of Homeland Security Office of Inspector General using the methods described at *https://www.oig.dhs.gov/hotline* or *https://www.oig.dhs.gov/reports/publications/annual/contractor-disclosure,* and submit the disclosure electronically to the Department of Homeland Security Office of Inspector General. The Contractor shall provide a copy of the disclosure to the Contracting Officer by email or facsimile on the same business day as the submission to the Office of Inspector General. The Contractor shall provide the Contracting Officer a concurrent copy of any supporting materials submitted to the Office of Inspector General.

(End of clause)

3052.204–71 [Amended]

■ 59. Amend section 3052.204–71, in Alternate I:

■ a. In paragraph (g), by removing ''Contracting Officer's Technical Representative (COTR)'' and adding the term ''Contracting Officer's Representative (COR)'' in its place; and

■ b. In paragraph (h), in two places, by removing the acronym ''COTR'' and adding ''COR'' in its place.

3052.209–70 [Amended]

■ 60. Amend section 3052.209–70, in the introductory text and in paragraphs (a) and (b), by removing the word ''clause'' and adding the word ''provision'' in its place.

3052.209–71 [Amended]

■ 61. Amend section 3052.209–71, in paragraph (a), by removing ''subelements'' and adding ''sub-elements'' in its place.

3052.209–72 [Amended]

■ 62. Amend section 3052.209–72:

■ a. In the introductory text and paragraphs (c)(2), (d), and (f), by removing the word ''provision'' and adding the word ''clause'' in its place; and

■ b. Removing, at the end of the section, ''(End of provision)'' and adding ''(End of clause)'' in its place.

■ 63. Amending section 3052.212–70 by revising paragraphs (a) and (b) of the clause to read as follows:

3052.212–70 Contract terms and conditions applicable to DHS acquisition of commercial items.

* * * * *

Contract Terms and Conditions Applicable to DHS Acquisition of Commercial Items (Sep 2012)

(a) *Provisions.*

__3052.216–70 Evaluation of Offers Subject to An Economic Price Adjustment Clause.
__3052.219–72 Evaluation of Prime Contractor Participation in the DHS Mentor Protégé Program.
__3052.247–70 F.o.B. Origin Information.
__Alternate I
__Alternate II
__3052.247–71 F.o.B. Origin Only.
__3052.247–72 F.o.B. Destination Only.

(b) *Clauses.*

__3052.203–70 Instructions for Contractor Disclosure of Violations.
__3052.204–70 Security Requirements for Unclassified Information Technology Resources.
__3052.204–71 Contractor Employee Access.
__Alternate I
__3052.205–70 Advertisement, Publicizing Awards, and Releases.
__Alternate I
__3052.209–72 Organizational Conflicts of Interest.
__3052.209–73 Limitation on Future Contracting.
__3052.215–70 Key Personnel or Facilities.
__3052.216–71 Determination of Award Fee.
__3052.216–72 Performance Evaluation Plan.
__3052.216–73 Distribution of Award Fee.
__3052.217–91 Performance. (USCG)
__3052.217–92 Inspection and Manner of Doing Work. (USCG)
__3052.217.93 Subcontracts. (USCG)
__3052.217.94 Lay Days. (USCG)
__3052.217–95 Liability and Insurance. (USCG)
__3052.217–96 Title. (USCG)
__3052.217.97 Discharge of Liens. (USCG)
__3052.217–98 Delays. (USCG)
__3052.217–99 Department of Labor Safety and Health Regulations for Ship Repair. (USCG)
__3052.217–100 Guarantee. (USCG)
__3052.219–71 DHS Mentor Protégé Program.
__3052.228–70 Insurance.
__3052.228–90 Notification of Miller Act Payment Bond Protection. (USCG)
__3052.228–91 Loss of or Damage to Leased Aircraft. (USCG)
__3052.228.92 Fair Market Value of Aircraft. (USCG)
__3052.228–93 Risk and Indemnities. (USCG)
__3052.236–70 Special Provisions for Work at Operating Airports.
__3052.242–72 Contracting Officer's Representative.

(End of clause)

* * * * *

3052.217–92 [Amended]

■ 64. Amend section 3052.217–92, in paragraph (e)(9), by removing the acronym ''COTR'' and adding ''COR'' in its place.

3052.217–96 [Amended]

■ 65. Amend section 3052.217–96, in paragraph (b), by removing ''equipments'' and adding ''equipment'' in its place.

3052.219–71 [Amended]

■ 66. Amend section 3052.219–71, in the introductory text, by removing ''48 CFR 3019.708–70(b)'' and adding ''48 CFR 3019.708–70(a)'' in its place.

3052.219–72 [Amended]

■ 67. Amend section 3052.219–72, in the introductory text, by removing ''48 CFR 3019.708–70(c)'' and adding ''48 CFR 3019.708–70(b)'' in its place.

■ 68. Revise section 3052.242–72 to read as follows:

3052.242–72 Contracting officer's representative.

As prescribed in (HSAR) 48 CFR 3042.7000, insert the following clause:

Contracting Officer's Representative (Dec 2003)

(a) The Contracting Officer may designate Government personnel to act as the Contracting Officer's Representative (COR) to perform functions under the contract such as review or inspection and acceptance of supplies, services, including construction, and other functions of a technical nature. The Contracting Officer will provide a written notice of such designation to the Contractor within five working days after contract award or for construction, not less than five working days prior to giving the contractor the notice to proceed. The designation letter will set forth the authorities and limitations of the COR under the contract.

(b) The Contracting Officer cannot authorize the COR or any other representative to sign documents, such as contracts, contract modifications, etc., that require the signature of the Contracting Officer.

(End of clause)

PART 3053—FORMS

■ 69. Revise the authority citation for part 3053 to read as follows:

Authority: 5 U.S.C. 301–302, 41 U.S.C. 1303, 41 U.S.C. 1707, 41 U.S.C. 1702, and 48 CFR subpart 1.3.

■ 70. Amend section 3053.303 by revising the introductory text to read as follows:

2053.303 Agency forms.

This section illustrates agency-specified forms. To access the DHS forms go to *https://www.dhs.gov/publication/acquisition-forms.*

* * * * *

[FR Doc. 2021–06176 Filed 4–1–21; 8:45 am]

BILLING CODE 4410–10–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 210325–0070]

RIN 0648–BJ93

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Snapper-Grouper Fishery of the South Atlantic Region; Regulatory Amendment 34

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

ACTION: Final rule.

SUMMARY: NMFS is implementing management measures described in Regulatory Amendment 34 to the Fishery Management Plan (FMP) for the Snapper-Grouper Fishery of the South Atlantic Region (Snapper-Grouper FMP), as prepared and submitted by the South Atlantic Fishery Management Council (Council). The final rule will create 34 special management zones (SMZs) around artificial reefs in the exclusive economic zone (EEZ) off North Carolina and South Carolina. The purpose of the final rule is to designate new SMZs and to restrict fishing gear with greater potential to result in high exploitation rates. The restrictions are expected to reduce potentially adverse effects to snapper-grouper species and enhance recreational fishing opportunities at these SMZs.

DATES: The final rule is effective on May 3, 2021.

ADDRESSES: Electronic copies of Regulatory Amendment 34 to the Snapper-Grouper FMP (Regulatory Amendment 34) may be obtained from *www.regulations.gov* or from the NMFS Southeast Regional Office website at *https://www.fisheries.noaa.gov/action/regulatory-amendment-34-special-management-zones-smz.* Regulatory Amendment 34 includes an environmental assessment, regulatory impact review, and Regulatory Flexibility Analysis (RFA).

FOR FURTHER INFORMATION CONTACT: Rick DeVictor, NMFS Southeast Regional Office, telephone: 727–824–5305, or email: *rick.devictor@noaa.gov.*

SUPPLEMENTARY INFORMATION: NMFS and the Council manage the snapper-grouper fishery under the Snapper-Grouper FMP. The Snapper-Grouper FMP was prepared by the Council and is implemented by NMFS through regulations at 50 CFR part 622 under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) (16 U.S.C. 1801 *et seq.*).

On November 16, 2020, NMFS published the proposed rule for Regulatory Amendment 34 in the **Federal Register** and requested public comment (85 FR 73013). Regulatory Amendment 34 and the proposed rule outline the rationale for the actions contained in this final rule. A summary of the management measure described in Regulatory Amendment 34 and implemented by this final rule is described below.

Background

The purpose of the Council's SMZ designation process and the subsequent specification of SMZs is to protect snapper-grouper populations at the relatively small artificial reef sites in the EEZ and to create fishing opportunities that would not otherwise exist without their designation. Prior to the SMZ designation process established by the Council in 1983, for example, black sea bass pots were used by commercial fishermen to efficiently remove black sea bass from artificial reefs off South Carolina. At the time of the SMZ designation process, the Council determined that because artificial reef sites are small in area due to the limited amount of suitable reef-building material, the sites are vulnerable to overexploitation by more efficient fishing gear that has the potential to result in localized depletion. In addition, the Council wanted to enhance fishing opportunities for the recreational sector through the designation of SMZs. The Council has determined that the harvest and gear restrictions will increase the abundance and size of snapper-grouper species at the sites, thereby increasing available catch for fishermen, such as those fishing under recreational harvest limits.

The North Carolina Division of Marine Fisheries (NCDMF) and the South Carolina Department of Natural Resources (SCDNR) requested that the Council designate artificial reefs located in the EEZ off their respective coasts as SMZs. Following a review of the requests, the Council developed Regulatory Amendment 34 that would create 34 new SMZs—30 off North Carolina and 4 off South Carolina. The Council determined that the actions in Regulatory Amendment 34 will enhance the fishing experience at the artificial reef sites for recreational fishermen and that will further promote the original intent of North Carolina and South Carolina for placing the artificial reefs at the sites. The purpose of Regulatory Amendment 34 and this final rule is to designate these sites as SMZs and to restrict fishing gear that could result in high exploitation rates to reduce potential adverse biological effects to federally managed snapper-grouper species and enhance recreational fishing opportunities at these sites.

Management Measures Contained in This Final Rule

This final rule creates SMZs in the EEZ off North Carolina and South Carolina. Authorized gear and harvest levels for snapper-grouper species at these new SMZs are also specified by this final rule to reduce potentially adverse biological effects to snapper-grouper species and enhance recreational fishing opportunities.

SMZs off North Carolina

This final rule designates 30 SMZs off North Carolina in the EEZ. The 30 sites are existing artificial reefs permitted by the Army Corps of Engineers. The SMZs match the sizes of the permitted artificial reefs, and range in size from 0.24 to 0.76 square nautical miles or 0.25 to 1.01 square miles (0.82 to 2.6 square km). This final rule establishes that all harvest of snapper-grouper species is allowed only with handline, rod and reel, and spear within the SMZs. Further, in the SMZs off North Carolina, all commercial and recreational harvest of snapper-grouper species by spear is limited to the applicable, existing recreational bag limits, as requested by the NCDMF.

SMZs off South Carolina

This final rule designates four SMZs, in addition to the existing 28 SMZs, off the coast of South Carolina in the EEZ. The four sites are existing artificial reefs

permitted by the Army Corps of Engineers. The SMZs match the sizes of the permitted artificial reefs, and range in size from 0.031 to 0.25 square nautical miles or 0.041 to 0.33 square miles (0.11 to 0.86 square km). This final rule establishes that all harvest of snapper-grouper species is allowed only with handline, rod and reel, and spear within the SMZs. Further, in the SMZs off South Carolina, all commercial and recreational harvest of snapper-grouper species is limited to the applicable, existing recreational bag limits, as requested by the SCDNR. These restrictions match the regulations in the current SMZs off South Carolina.

Comments and Responses

NMFS received 10 comments during the public comment period on the proposed rule for Regulatory Amendment 34. Most comments were in support of the creation of SMZs at the artificial reef sites. NMFS acknowledges the comments in favor of the action in the proposed rule and agrees with them. Some comments were outside the scope of the proposed rule and Regulatory Amendment 34 and are not responded to in this final rule. Comments that opposed or requested additional information about the actions contained in Regulatory Amendment 34 and the proposed rule are summarized below, along with NMFS' responses.

Comment 1: Prohibiting commercial fishermen from taking more than the recreational bag and possession limits of South Atlantic snapper-grouper from the SMZs in this final rule where fish are attracted and congregating will only decrease the efficiency of the commercial fishermen's efforts. This is contrary to what the Fishing Enhancement Act describes in 33 U.S.C. 2101(a)(5) as what properly managed reefs can do. Without violating the intent of the National Fishing Enhancement Act (Act) of 1984, explain how NMFS can convert the artificial reefs that are in Federal waters into SMZs where only recreational harvest is allowed when this is clearly contrary to proper management outlined in 33 U.S.C. 2101(a)(5). Further, NMFS is violating the artificial reef standards written in 33 U.S.C. 2102(2) by effectively excluding commercial fishing from federally permitted artificial reefs.

Response: NMFS does not agree that the final rule will violate the intent of the Act by only allowing recreational harvest levels at the SMZ sites in this final rule. The purpose of the Act is to promote and facilitate responsible and effective efforts to establish artificial reefs. The Act further states that properly designed artificial reefs can enhance the habitat and diversity of fishery resources; enhance United States recreational and commercial fishing opportunities; increase the production of fishery products in the United States; increase the energy efficiency of recreational and commercial fisheries; and contribute to the United States and coastal economies.

The final rule conforms with the intent of the Act. The final rule does not prohibit harvest by commercial fishermen, and will allow both commercial and recreational fishing with handline, rod and reel, and spear in the SMZs. The purpose of this final rule is to restrict the use of fishing gear with a greater potential to result in high exploitation rates to reduce potentially adverse effects to federally managed snapper-grouper species at these sites. The Council determined that the actions will enhance the fishing experience at the artificial reefs for recreational fishermen and that optimizing opportunities for recreational fishermen was the original intent of the artificial reef placement at these sites.

Comment 2: Explain if the gear requirements in this final rule allow electric fishing reels, such as the Tanacom 1000.

Response: Allowable gear for the harvest of South Atlantic snapper-grouper at the SMZ sites in this final rule off North Carolina and South Carolina includes rod and reel, and the use of electric-powered reels, such as the Tanacom 1000.

Classification

Pursuant to section 304(b)(1)(A) of the Magnuson-Stevens Act, the NMFS Assistant Administrator has determined that this final rule is consistent with Regulatory Amendment 34, the Snapper-Grouper FMP, the Magnuson-Stevens Act, and other applicable laws.

This final rule has been determined to be not significant for purposes of Executive Order 12866.

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 or recordkeeping compliance requirements are introduced in this final rule. This final rule contains no information collection requirements under the Paperwork Reduction Act of 1995.

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration during the proposed rule stage that this rule would not have a significant economic impact on a substantial number of small entities. The factual basis for the certification was published in the proposed rule and is not repeated here. No comments from the public were received regarding this certification. As a result, a final regulatory flexibility analysis was not required and none was prepared.

List of Subjects in 50 CFR Part 622

Fisheries, Fishing, Grouper, Snapper, South Atlantic.

Dated: March 26, 2021.

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 § 622.182, add paragraphs (e) and (f) to read as follows:

§ 622.182 Gear-restricted areas.

* * * * *

(e) *SMZs off North Carolina.* (1) The center of each SMZ in Table 3 to this paragraph (e) is located at the given point with a radius extending the applicable distance in every direction laterally from that point to form a circle around the center point.

(2) Harvest of South Atlantic snapper-grouper while in the SMZs in this paragraph (e) is permitted only by handline, rod and reel, and spearfishing gear. All harvest of South Atlantic snapper-grouper by spearfishing gear in the SMZs in this paragraph (e) is limited to the applicable recreational bag and possession limits in § 622.187.

TABLE 3 TO PARAGRAPH (e)

Reef name	North lat.	West long.	Radius in ft (m)
AR–130	36°00.296′	75°31.957′	1,500 (457)
AR–140	35°56.718′	75°31.965′	1,500 (457)
AR–145	35°54.017′	75°23.883′	1,500 (457)
AR–220	35°08.117′	75°40.633′	3,000 (914)
AR–225	35°06.768′	75°39.322′	1,500 (457)
AR–230	35°06.133′	75°42.933′	1,500 (457)
AR–250	34°56.900′	75°54.860′	1,500 (457)
AR–255	34°55.483′	75°57.910′	1,500 (457)
AR–285	34°33.383′	76°26.350′	1,500 (457)
AR–300	34°18.517′	76°24.133′	1,500 (457)
AR–302	34°10.265′	76°13.703′	1,500 (457)
AR–305	34°16.683′	76°38.650′	1,500 (457)
AR–330	34°33.634′	76°51.267′	3,000 (914)
AR–340	34°34.319′	76°58.345′	1,500 (457)
AR–345	34°32.266′	76°58.508′	1,500 (457)
AR–355	34°21.318′	77°19.877′	1,500 (457)
AR–362	34°15.657′	77°30.392′	1,500 (457)
AR–366	34°12.950′	77°25.250′	1,500 (457)
AR–368	34°09.514′	77°25.782′	1,500 (457)
AR–372	34°06.295′	77°44.917′	1,500 (457)
AR–376	34°03.283′	77°39.633′	1,500 (457)
AR–382	33°58.581′	77°41.172′	1,500 (457)
AR–386	33°57.517′	77°33.400′	1,500 (457)
AR–400	33°29.267′	77°35.227′	1,500 (457)
AR–420	33°51.050′	78°06.710′	1,500 (457)
AR–440	33°49.800′	78°13.083′	1,500 (457)
AR–445	33°44.783′	78°14.100′	1,500 (457)
AR–455	33°47.033′	78°17.883′	1,500 (457)
AR–460	33°50.089′	78°22.022′	1,500 (457)
AR–465	33°23.423′	78°11.052′	1,500 (457)

(f) *Additional SMZs off South Carolina.* (1) The center of each SMZ in Table 4 to this paragraph (f) is located at the given point with a radius extending the applicable distance in every direction laterally from that point to form a circle around the center point.

(2) Harvest of South Atlantic snapper-grouper while in the SMZs in this paragraph (f) is permitted only by handline, rod and reel, and spearfishing gear (excludes a powerhead). All harvest of South Atlantic snapper-grouper by the allowable gear in the SMZs in this paragraph (f) is limited to the applicable recreational bag and possession limits in § 622.187.

(3) *PA–04—Ron McManus Memorial Reef.* This SMZ is bounded by lines connecting the following corner points: northwest corner point at 33°46.400′ N, 78°36.200′ W; northeast corner point at 33°46.400′ N, 78°35.600′ W; southeast corner point at 33°45.900′ N, 78°35.600′ W; and southwest corner point at 33°45.900′ N, 78°36.200′ W.

TABLE 4 TO PARAGRAPH (f)

Reef name	North lat.	West long.	Radius in ft (m)
PA–07 Pop Nash	33°34.510′	78°51.000′	600 (183)
PA–28 Lowcountry Anglers	32°34.300′	79°55.100′	600 (183)
PA–34 CCA-McClellanville	32°51.800′	79°22.500′	600 (183)

[FR Doc. 2021–06606 Filed 4–1–21; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 210210–0018; RTID 0648–XA987]

Fisheries of the Exclusive Economic Zone off Alaska; Pollock in the West Yakutat District in the Gulf of Alaska

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

ACTION: Temporary rule; modification of closure.

SUMMARY: NMFS is opening directed fishing for pollock in the West Yakutat District of the Gulf of Alaska (GOA). This action is necessary to fully use the 2021 total allowable catch of pollock in the West Yakutat District of the GOA.

DATES: Effective 1200 hours, Alaska local time (A.l.t.), April 1, 2021, through 2400 hours, A.l.t., December 31, 2021. Comments must be received at the

following address no later than 4:30 p.m., A.l.t., April 14, 2021.

ADDRESSES: You may submit comments on this document, identified by FDMS Docket Number NOAA–NMFS–2020–0140 by any of the following methods:

• *Electronic Submission:* Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to *https://www.regulations.gov* and enter NOAA–NMFS–2020–0140 in the Search box. Click on the ''Comment'' icon, complete the required fields, and enter or attach your comments.

• *Mail:* Address written comments to Glenn Merrill, Assistant Regional Administrator, Sustainable Fisheries Division, Alaska Region NMFS, Attn: Records Office. Mail comments to P.O. Box 21668, Juneau, AK 99802–1668.

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

FOR FURTHER INFORMATION CONTACT: 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 2021 total allowable catch (TAC) of pollock in the West Yakutat District of the GOA is 5,412 metric tons (mt) as established by the final 2021 and 2022 harvest specifications for groundfish in the GOA (86 FR 10184, February 19, 2021).

NMFS closed directed fishing for pollock in the West Yakutat District of the GOA under § 679.20(d)(1)(iii) on March 9, 2021 (86 FR 14015, March 12, 2021).

As of March 29, 2021, NMFS has determined that approximately 660 mt of pollock remains in the West Yakutat District of the GOA. Therefore, in accordance with § 679.25(a)(1)(i), (a)(2)(i)(C), and (a)(2)(iii)(D), and to fully utilize the 2021 TAC of pollock in the West Yakutat District of the GOA, NMFS is terminating the previous closure and is reopening directed fishing for pollock in the West Yakutat District of the GOA, effective 1200 hours, A.l.t., April 1, 2021.

The Administrator, Alaska Region (Regional Administrator) considered the following factors in reaching this decision: (1) The catch of pollock in the West Yakutat District of the GOA and, (2) the harvest capacity and stated intent on future harvesting patterns of vessels in participating in this fishery.

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 opening of directed fishing for pollock in the West Yakutat District of the GOA. NMFS was unable to publish a notice providing time for public comment because the most recent, relevant data only became available as of March 29, 2021.

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

Dated: March 30, 2021.

Jennifer M. Wallace,

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

[FR Doc. 2021–06849 Filed 3–30–21; 4:15 pm]

BILLING CODE 3510–22–P

Proposed Rules

Federal Register
Vol. 86, No. 62
Friday, April 2, 2021

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

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2021–0256; Project Identifier MCAI–2020–00480–R]

RIN 2120–AA64

Airworthiness Directives; Airbus Helicopters Deutschland GmbH (AHD) Helicopters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to adopt a new airworthiness directive (AD) for all Airbus Helicopters Deutschland GmbH (AHD) Model MBB–BK 117 D–2 helicopters. This proposed AD was prompted by a failed electrical test during production. This proposed AD would require replacing certain wire harness trim connector backshells (backshells), as specified in a European Union Aviation Safety Agency (EASA) AD, which is proposed for incorporation by reference (IBR). This proposed AD would also prohibit installing the affected backshells. 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 May 17, 2021.

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 is proposed for IBR in this AD, contact the EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; telephone +49 221 8999 000; email *ADs@easa.europa.eu;* internet *www.easa.europa.eu.* You may find this material on the EASA website at *https://ad.easa.europa.eu.* You may view this material at the FAA, Office of the Regional Counsel, Southwest Region, 10101 Hillwood Pkwy., Room 6N–321, Fort Worth, TX 76177. For information on the availability of this material at the FAA, call (817) 222–5110. It is also available in the AD docket on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2021–0256.

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–2021–0256; 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: Katherine Venegas, Aviation Safety Engineer, Los Angeles ACO Branch, Compliance & Airworthiness Division, FAA, 3960 Paramount Blvd., Lakewood, California 90712; telephone (562) 627–5353; email *katherine.venegas@faa.gov.*

SUPPLEMENTARY INFORMATION:

Comments Invited

The FAA invites you to send any written relevant data, views, or arguments about this proposal. Send your comments to an address listed under **ADDRESSES**. Include ''Docket No. FAA–2021–0256; Project Identifier MCAI–2020–00480–R'' 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 proposal because of 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 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

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 Katherine Venegas, Aviation Safety Engineer, Los Angeles ACO Branch, Compliance & Airworthiness Division, FAA, 3960 Paramount Blvd., Lakewood, California 90712; telephone (562) 627–5353; email *katherine.venegas@faa.gov.* Any commentary that the FAA receives that 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 2019–0198, dated August 15, 2019 (EASA AD 2019–0198), to correct an unsafe condition for all Airbus Helicopters Deutschland GmbH (AHD), formerly Eurocopter Deutschland GmbH, Model MBB–BK117 D–2 helicopters.

This proposed AD was prompted by a short circuit in a yaw trim actuator connector that occurred during production electrical tests. Subsequent investigations determined that a sharp edge in the backshell damaged the wiring insulation. The FAA is issuing this proposed AD to address an unsafe condition that could result in yaw or pitch trim runaway and subsequent loss of control of the helicopter. See the

EASA AD for additional background information.

Related Service Information Under 1 CFR Part 51

EASA AD 2019–0198 specifies replacing backshells part number (P/N) M85049/90–13W02 if manufactured by AMPHENOL or if the manufacturer is unknown (affected part) with backshells P/N M85049/90–13W02 not manufactured by AMPHENOL (serviceable part). EASA AD 2019–0198 also prohibits the (re-)installation of an affected part.

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

These products have been approved by the aviation authority of another country, and are approved for operation in the United States. Pursuant to the bilateral agreement with the State of Design Authority, the FAA has been notified of the unsafe condition described in the EASA AD referenced above. The FAA is proposing this AD after evaluating all the relevant information and determining the unsafe condition described previously is likely to exist or develop in other products of the same type design.

Proposed AD Requirements

This proposed AD would require accomplishing the actions specified in EASA AD 2019–0198, described previously, as incorporated by reference, except for any differences identified as exceptions in the regulatory text of this proposed AD and except as discussed under ''Differences Between this Proposed AD and the EASA AD.''

Explanation of Required Compliance Information

In the FAA's ongoing efforts to improve the efficiency of the AD process, the FAA initially worked with Airbus and EASA to develop a process to use certain EASA ADs as the primary source of information for compliance with requirements for corresponding FAA ADs. The FAA has since coordinated with other manufacturers and civil aviation authorities (CAAs) to use this process. As a result, EASA AD 2019–0198 will be incorporated by reference in the FAA final rule. This proposed AD would, therefore, require compliance with EASA AD 2019–0198 in its entirety, through that incorporation, except for any differences identified as exceptions in the regulatory text of this proposed AD. Using common terms that are the same as the heading of a particular section in the EASA AD does not mean that operators need comply only with that section. For example, where the AD requirement refers to ''all required actions and compliance times,'' compliance with this AD requirement is not limited to the section titled ''Required Action(s) and Compliance Time(s)'' in the EASA AD. Service information specified in EASA AD 2019–0198 that is required for compliance with EASA AD 2019–0198 will be available on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2021–0256 after the FAA final rule is published.

Differences Between This Proposed AD and the EASA AD

The EASA AD applies to all Model MBB–BK117 D–2 helicopters, whereas this proposed AD applies to that model helicopter with an affected part installed instead. The EASA AD requires replacing each affected part with a serviceable part within 9 months, whereas this proposed AD would require that replacement within 30 hours time-in-service instead.

Costs of Compliance

The FAA estimates that this proposed AD affects 30 helicopters of U.S. Registry. Labor rates are estimated at $85 per work-hour. Based on these numbers, the FAA estimates that operators may incur the following costs in order to comply with this proposed AD.

Replacing each backshell would take about 8 work-hours and parts would cost $220, for an estimated cost of $900 per backshell.

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:

Airbus Helicopters Deutschland GmbH (AHD): Docket No. FAA–2021–0256; Project Identifier MCAI–2020–00480–R.

(a) Comments Due Date

The FAA must receive comments by May 17, 2021.

(b) Affected Airworthiness Directives (ADs)

None.

(c) Applicability

This AD applies to Airbus Helicopters Deutschland GmbH Model MBB–BK 117 D–2 helicopters, certificated in any category, having an affected part as defined in European Union Aviation Safety Agency (EASA) AD 2019–0198, dated August 15, 2019 (EASA AD 2019–0198).

(d) Subject

Joint Aircraft System Component (JASC) Code 2700, Flight Control System.

(e) Reason

This AD was prompted by a short circuit in a yaw trim actuator connector that occurred during production electrical tests. Subsequent investigations determined that a sharp edge in the wire harness trim connector backshell damaged the wiring insulation. The FAA is issuing this AD to address an unsafe condition that could result in yaw or pitch trim runaway and subsequent loss of control of the helicopter.

(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 EASA AD 2019–0198.

(h) Exceptions to EASA AD 2019–0198

(1) Where EASA AD 2019–0198 refers to its effective date, this AD requires using the effective date of this AD.

(2) Where paragraph (1) of EASA AD 2019–0198 specifies to replace each affected part with a serviceable part within 9 months, this AD requires replacing each affected part with a serviceable part within 30 hours time-in-service after the effective date of this AD.

(3) Although the service information referenced in EASA AD 2019–0198 specifies to discard certain parts, this AD requires removing those parts from service.

(4) Where the service information referenced in EASA AD 2019–0198 specifies to use tooling, equivalent tooling may be used.

(5) Paragraph (2) of EASA AD 2019–0198 does not apply to this AD; this AD requires compliance with paragraph (i) of this AD.

(6) The ''Remarks'' section of EASA AD 2019–0198 does not apply to this AD.

(i) Parts Installation Prohibition

As of the effective date of this AD, do not install a wire harness trim connector backshell identified in paragraph (c) of this AD on any helicopter.

(j) Alternative Methods of Compliance (AMOCs)

(1) The Manager, Strategic Policy Rotorcraft Section, 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 Strategic Policy Rotorcraft Section, send it to: Manager, Strategic Policy Rotorcraft Section, FAA, 10101 Hillwood Pkwy., Fort Worth, TX 76177; telephone (817) 222–5110. Information may be emailed to: *9-ASW-FTW-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.

(k) Related Information

(1) For EASA AD 2019–0198 contact the EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; telephone +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, Office of the Regional Counsel, Southwest Region, 10101 Hillwood Pkwy., Room 6N–321, Fort Worth, TX 76177. For information on the availability of this material at the FAA, call (817) 222–5110. 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–2021–0256.

(2) For more information about this AD, contact Katherine Venegas, Aviation Safety Engineer, Los Angeles ACO Branch, Compliance & Airworthiness Division, FAA, 3960 Paramount Blvd., Lakewood, California 90712; telephone (562) 627–5353; email *katherine.venegas@faa.gov.*

Issued on March 25, 2021.

Lance T. Gant,

Director, Compliance & Airworthiness Division, Aircraft Certification Service.

[FR Doc. 2021–06778 Filed 4–1–21; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2021–0017; Project Identifier AD–2020–01186–T]

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 certain The Boeing Company Model 737–8 and 737–9 airplanes. This proposed AD was prompted by a report that during refueling of the right main tank, if there is a failure of the automatic shutoff system, the refueling panel does not provide the required indication that the automatic shutoff has failed. This proposed AD would require installing a new fuel quantity processor unit (FQPU) and doing a FQPU software check. 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 May 17, 2021.

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

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

For service information identified in this NPRM, contact Boeing Commercial Airplanes, Attention: Contractual & Data Services (C&DS), 2600 Westminster Blvd., MC 110–SK57, Seal Beach, CA 90740–5600; telephone 562–797–1717; internet *https://www.myboeingfleet.com.* You may view this referenced service information 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 on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2021–0017.

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–2021–0017; 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.

FOR FURTHER INFORMATION CONTACT: Chris Baker, Aerospace Engineer, Propulsion Section, FAA, Seattle ACO Branch, 2200 South 216th St., Des Moines, WA 98198; phone and fax: 206–231–3552; email: *christopher.r.baker@faa.gov.*

SUPPLEMENTARY INFORMATION:

Comments Invited

The FAA invites you to send any written relevant data, views, or arguments about this proposal. Send your comments to an address listed under **ADDRESSES**. Include ''Docket No. FAA–2021–0017; Project Identifier AD–2020–01186–T'' 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 the proposal because of 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 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 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 Chris Baker, Aerospace Engineer, Propulsion Section, FAA, Seattle ACO Branch, 2200 South 216th St., Des Moines, WA 98198; phone and fax: 206–231–3552; email: *christopher.r.baker@faa.gov.* Any commentary that the FAA receives which is not specifically designated as CBI will be placed in the public docket for this rulemaking.

Background

During refueling, the automatic shutoff system is supposed to close the refuel valve when the fuel tank is full. If the automatic shutoff system fails, the refuel indicator on the refuel panel should flash to indicate the failure and alert the person refueling the airplane. The FAA has received a report indicating that on The Boeing Company Model 737–8 and 737–9 airplanes, during refueling of the right main tank, if there is a failure of the automatic shutoff system, the refueling panel does not provide the required flashing indication to the person fueling the airplane that the automatic shutoff has failed to shut off the fuel. This is a result of the flashing threshold in the FQPU not being set at the correct fuel level. This condition, if not addressed, could result in overfill of the right main fuel tank, spilled fuel, and pooling on the ground that could come in contact with an ignition source, resulting in a ground fire.

Related Service Information Under 1 CFR part 51

The FAA reviewed Boeing Special Attention Requirements Bulletin 737–28–1363 RB, dated June 2, 2020. The service information specifies procedures for replacing the FQPU having an incorrect indication threshold with a FQPU with part number 30128–06 or 30128–58, as applicable, or a FQPU with a later-approved part number, and doing a FQPU software check.

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

FAA's Determination

The FAA is issuing this NPRM after determining 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 identified in Boeing Special Attention Requirements Bulletin 737–28–1363 RB, dated June 2, 2020, described previously, except for any differences identified as exceptions in the regulatory text of this proposed AD.

For information on the procedures and compliance times, see this service information at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2021–0017.

Costs of Compliance

The FAA estimates that this AD, if adopted as proposed, would affects 66 airplanes of U.S. registry. The FAA estimates the following costs to comply with this proposed AD:

ESTIMATED COSTS FOR REQUIRED ACTIONS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Installation and software check	3 work-hour × $85 per hour = $255	$0	$255	$16,830

The FAA has included all known costs in this cost estimate. According to the manufacturer, however, some or all of the costs of this proposed AD may be covered under warranty, thereby reducing the cost impact on affected operators.

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) 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 adding the following new airworthiness directive:

The Boeing Company: Docket No. FAA–2021–0017; Project Identifier AD–2020–01186–T.

(a) Comments Due Date

The FAA must receive comments on this airworthiness directive (AD) by May 17, 2021.

(b) Affected ADs

None.

(c) Applicability

This AD applies to The Boeing Company Model 737–8 and 737–9 airplanes, certificated in any category, as identified in Boeing Special Attention Requirements Bulletin 737–28–1363 RB, dated June 2, 2020.

(d) Subject

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

(e) Unsafe Condition

This AD was prompted by a report that during refueling of the right main tank, if there is a failure of the automatic shutoff system, the refueling panel does not provide the required flashing indication that the automatic shutoff has failed to shut off the fuel. The FAA is issuing this AD to address this indication failure to warn the person fueling the airplane, which could cause overfill of the right main tank, spilled fuel, and pooling on the ground that could come in contact with an ignition source, resulting in a ground fire.

(f) Compliance

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

(g) Required Actions

Except as specified by paragraph (h) of this AD, at the applicable times specified in the ''Compliance'' paragraph of Boeing Special Attention Requirements Bulletin 737–28–1363 RB, dated June 2, 2020, do all applicable actions identified in, and in accordance with, the Accomplishment Instructions of Boeing Special Attention Requirements Bulletin 737–28–1363 RB, dated June 2, 2020.

Note 1 to paragraph (g): Guidance for accomplishing the actions required by this AD can be found in Boeing Special Attention Service Bulletin 737–28–1363, dated June 2, 2020, which is referred to in Boeing Special Attention Requirements Bulletin 737–28–1363 RB, dated June 2, 2020.

(h) Exception to Service Information Specifications

Where Boeing Special Attention Requirements Bulletin 737–28–1363 RB, dated June 2, 2020, uses the phrase ''the Original Issue date of Requirements Bulletin 737–28–1363 RB,'' this AD requires using ''the effective date of this AD.''

(i) Alternative Methods of Compliance (AMOCs)

(1) The Manager, Seattle ACO Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or responsible Flight Standards 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)(1) of this AD. Information may be emailed to: *9-ANM-Seattle-ACO-AMOC-Requests@faa.gov.*

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

(1) For more information about this AD, contact Chris Baker, Aerospace Engineer, Propulsion Section, FAA, Seattle ACO Branch, 2200 South 216th St., Des Moines, WA 98198; phone and fax: 206–231–3552; email: *christopher.r.baker@faa.gov.*

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

Issued on January 27, 2021.

Lance T. Gant,

Director, Compliance & Airworthiness Division, Aircraft Certification Service.

[FR Doc. 2021–06726 Filed 4–1–21; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2021–0257; Project Identifier MCAI–2020–00712–E]

RIN 2120–AA64

Airworthiness Directives; Rolls-Royce Deutschland Ltd & Co KG (Type Certificate Previously Held by Rolls-Royce Deutschland GmbH, Formerly BMW Rolls-Royce GmbH) Turbofan Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to adopt a new airworthiness directive (AD) for certain Rolls-Royce Deutschland Ltd & Co KG (type certificate previously held by Rolls-Royce Deutschland GmbH, formerly BMW Rolls-Royce GmbH) (RRD) BR700–710A2–20 model turbofan engines. This proposed AD was prompted by flight data obtained from airplanes equipped with certain Rockwell Collins avionics and auto-throttle systems that demonstrated significant oscillation of the engine rotor revolution speed during flight. This proposed AD would require initial and repetitive recalculation of the consumed and remaining service life of certain life-limited parts (LLPs). This proposed AD would also require removal of an LLP prior to its approved life limit or within 90 days after the effective date of this AD, whichever occurs later. 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 May 17, 2021.

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 Rolls-Royce Deutschland Ltd & Co KG, Eschenweg 11, Dahlewitz, 15827 Blankenfelde-Mahlow, Germany; phone: +49 (0) 33 7086–4040; website: *https://www.rolls-royce.com/contact-us.aspx.* 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 at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2021–0257; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this NPRM, the mandatory continuing airworthiness information (MCAI), any comments received, and other information. The street address for Docket Operations is listed above.

FOR FURTHER INFORMATION CONTACT: Wego Wang, Aviation Safety Engineer, ECO Branch, FAA, 1200 District Avenue, Burlington, MA 01803; phone: (781) 238–7134; fax: (781) 238–7199; email: *Wego.Wang@faa.gov*.

SUPPLEMENTARY INFORMATION:

Comments Invited

The FAA invites you to send any written relevant data, views, or arguments about this proposal. Send your comments to an address listed under **ADDRESSES**. Include ''Docket No. FAA–2021–0257; Project Identifier MCAI–2020–00712–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 proposal because of 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 received, without change, to *https://www.regulations.gov,* including any personal information you provide. The FAA will also post a report summarizing each substantive verbal contact received about this NPRM.

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 final rule 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 final rule, 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 final rule. Submissions containing CBI should be sent to Wego Wang, Aviation Safety 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 European Union Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Community, has issued EASA AD 2018–0268, dated December 11, 2018 and corrected on February 20, 2019 (referred to after this as ''the MCAI''), to address the unsafe condition on these products. The MCAI states:

> Flight data obtained from aeroplanes equipped with certain Rockwell Collins avionics and auto-throttle system demonstrated significant oscillation of the engine rotor revolution speed during cruise. Analysis indicates that this affects the service life of the affected LLP.
>
> This condition, if not corrected, may lead to failure of an affected LLP, possibly resulting in release of high-energy debris, with consequent damage to, and/or reduced control of, the aeroplane.
>
> To address this potentially unsafe condition, RRD issued the NMSB, providing instructions to recalculate the consumed and remaining service life of the affected LLP.
>
> For the reasons described above, this [EASA] AD requires repetitive recalculation of the service life (consumed and remaining) of each affected LLP and, depending on the results, replacement of each affected LLP before exceeding the life limit, taking the re-calculated life consumption into account.

You may obtain further information by examining the MCAI in the AD docket at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2021–0257.

FAA's Determination

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

Related Service Information Under 1 CFR Part 51

The FAA reviewed RRD Alert Non-Modification Service Bulletin (NMSB) SB–BR700–72–A900584, Revision 2, dated November 22, 2017 (the NMSB). The NMSB describes procedures for amending flight cycle counting requirements for affected LLPs on RRD BR700–710A2–20 model turbofan engines. 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 **ADDRESSES**.

Other Related Service Information

The FAA reviewed Bombardier Service Bulletin (SB) 700–34–5021, Revision 03, dated January 5, 2018, and Bombardier SB 700–34–6021, Revision 03, dated January 5, 2018. These SBs describe procedures for the implementation of the Global Vision Flight Deck Version 5 (V5) software load on Bombardier Inc. Model BD–700–1A11 and BD–700–1A10 airplanes, respectively.

Proposed AD Requirements in This NPRM

This proposed AD would require repetitive recalculation of the consumed and remaining service life of certain LLPs and replacement of any LLP that has exceeded its approved life limit.

Differences Between This Proposed AD and the MCAI or Service Information

EASA AD 2018–0268 includes in its applicability engines installed and operated on a pre-mod airplane during a period of 24 months prior to the current installation. Instead of a period of 24 months, this AD proposes to apply to engines installed and operated on a pre-mod airplane at any time after January 1, 2017 to adjust for the additional time since publication of the EASA AD.

In addition, EASA AD 2018–0268 requires an initial recalculation of

consumed and remaining service life of the low-pressure compressor (LPC) disk at each engine removal for maintenance within 250 flight cycles or 12 months, whichever occurs first after its effective date. EASA AD 2018–0268 also requires recalculation of the consumed and remaining life of the other affected LLPs after this period. This proposed AD does not include the initial recalculation of the consumed and remaining life of the LPC disk, but requires recalculation of consumed and remaining service life of the disk and all other affected LLPs within 90 days after the effective date of this proposed AD. The FAA determined that the initial recalculation of the consumed and remaining service life of the LPC disk, separately from the other LLPs, is not needed to resolve the unsafe condition because the 12-month initial inspection period in EASA AD 2018–0268 has passed.

Costs of Compliance

The FAA estimates that this AD, if adopted as proposed, would affect 284 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
Recalculate service life for affected LLPs	20 work-hours × $85 per hour = $85	$0	$1,700	$482,800

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) 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 adding the following new airworthiness directive:

Rolls-Royce Deutschland Ltd & Co KG (Type Certificate Previously held by Rolls-Royce Deutschland GmbH, Formerly BMW Rolls-Royce GmbH): Docket No. FAA–2021–0257; Project Identifier MCAI–2020–00712–E.

(a) Comments Due Date

The FAA must receive comments on this airworthiness directive (AD) by May 17, 2021.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Rolls-Royce Deutschland Ltd & Co KG (Type Certificate previously held by Rolls-Royce Deutschland GmbH, formerly BMW Rolls-Royce GmbH) (RRD) BR700–710A2–20 model turbofan engines:

(1) Installed and operated on a Bombardier Model BD–700–1A10 and BD–700–1A11 airplane, with serial number 9381, 9386, 9401, or 9432 to 9786, inclusive, that have not incorporated Bombardier Service Bulletin (SB) 700–34–5021, Revision 3, dated January 5, 2018 or Bombardier SB 700–34–6021, Revision 3, dated January 5, 2018, as applicable, referred to after this as a ''pre-mod airplane,'' or

(2) Installed and operated on a pre-mod airplane at any time after January 1, 2017.

(d) Subject

Joint Aircraft System Component (JASC) Code 7230, Turbine Engine Compressor Section.

(e) Unsafe Condition

This AD was prompted by flight data obtained from airplanes equipped with certain Rockwell Collins avionics and auto-throttle systems which demonstrated significant oscillation of the engine rotor revolution speed during flight. The FAA is issuing this AD to prevent failure of an affected life-limited part (LLP). The unsafe condition, if not addressed, could result in uncontained release of high-energy debris, damage to the engine, and damage to the airplane.

(f) Compliance

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

(g) Required Actions

(1) Within 90 days after the effective date of this AD, recalculate the consumed and remaining service life of each affected LLP using Accomplishment Instructions, paragraph 3.D., of RRD Alert Non-Modification Service Bulletin (NMSB) SB–BR700–72–A900584, Revision 2, dated November 22, 2017 (the NMSB).

(2) For engines installed and operated on a pre-mod airplane, after performing the initial recalculations required by paragraph (g)(1) of this AD, for each flight, calculate the consumed and remaining service life of each affected LLP using paragraph 3.D. of the Accomplishment Instructions of the NMSB.

(3) Remove each affected LLP prior to exceeding its approved life limit or within 90 days after the effective date of this AD, whichever occurs later.

(h) Credit for Previous Actions

You may take credit for the recalculation of the consumed and remaining service life of each LLP required by paragraph (g)(1) of this AD if the action was performed before

the effective date of this AD using RRD Alert NMSB SB–BR700–72–A900584, Revision 1, dated October 5, 2017, or original issue, dated January 31, 2017.

(i) Definition

For the purpose of this AD, an affected LLP is: an LPC disk, LPC fan blade, fan shaft, low-pressure turbine (LPT) stage 1 disk, LPT stage 2 disk, LPT rotor shaft and annulus filler, high-pressure compressor (HPC) stage 1–6 rotor disk, HPC stage 7–10 rotor disk, curvic ring, high pressure turbine (HPT) stage 1 disk, and an HPT stage 2 disk.

(j) 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 Related Information. 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.

(k) Related Information

(1) For more information about this AD, contact Wego Wang, Aviation Safety Engineer, ECO Branch, FAA, 1200 District Avenue, Burlington, MA 01803; phone: (781) 238–7134; fax: (781) 238–7199; email: *Wego.Wang@faa.gov*.

(2) Refer to European Union Aviation Safety Agency (EASA) AD 2018–0268, dated December 11, 2018, for more information. You may examine the EASA AD in the AD docket at *https://www.regulations.gov* by searching for and locating it in Docket No. FAA–2021–0257.

(3) For service information identified in this AD, contact Rolls-Royce Deutschland Ltd & Co KG, Eschenweg 11, Dahlewitz, 15827 Blankenfelde-Mahlow, Germany; phone: +49 (0) 33 7086–4040; website: *https://www.rolls-royce.com/contact-us.aspx.* 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 March 29, 2021.

Lance T. Gant,

Director, Compliance & Airworthiness Division, Aircraft Certification Service.

[FR Doc. 2021–06800 Filed 4–1–21; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2020–0985; Project Identifier 2018–SW–064–AD]

RIN 2120–AA64

Airworthiness Directives; Airbus Helicopters Deutschland GmbH

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Proposed rule; withdrawal.

SUMMARY: The FAA is withdrawing a notice of proposed rulemaking (NPRM) that proposed to adopt a new airworthiness directive (AD) that would have applied to certain Airbus Helicopters Deutschland GmbH Model EC135P1, EC135T1, EC135P2, EC135T2, EC135P2+, EC135T2+, EC135P3, and EC135T3 helicopters. The NPRM was prompted by a deviation from a new manufacturing process and a determination that the deviation resulted in a reduced life limit (service life limit) for certain tail rotor (TR) blades. The NPRM would have required a reduced life limit for those TR blades and require a new life limit for certain other TR blades. Since issuance of the NPRM, the FAA has determined that the deviation from the new manufacturing process does not reduce the life limit of certain TR blades and that a new life limit is not needed for certain other blades. Accordingly, the NPRM is withdrawn.

DATES: As of April 2, 2021, the proposed rule, which was published in the **Federal Register** on November 9, 2020 (85 FR 71286), is withdrawn.

ADDRESSES:

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–2020–0985; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this AD action, any comments received, and other information. The street address for Docket Operations is U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Kristin Bradley, Aerospace Engineer, General Aviation & Rotorcraft Section, International Validation Branch, Compliance & Airworthiness Division, FAA, 10101 Hillwood Pkwy., Fort Worth, TX 76177; telephone 817–222–5110; email *Kristin.Bradley@faa.gov.*

SUPPLEMENTARY INFORMATION:

Discussion

The FAA has issued an NPRM that proposed to amend 14 CFR part 39 by adding an AD that would apply to the specified products. The NPRM was published in the **Federal Register** on November 9, 2020 (85 FR 71286). The NPRM was prompted by a deviation from a new manufacturing process and a determination that the deviation resulted in a reduced life limit (service life limit) for certain TR blades.

The NPRM proposed to require a reduced life limit for those TR blades and require a new life limit for certain other TR blades.

Actions Since the NPRM was Issued

Since issuance of the NPRM, the FAA determined that the deviation from the new manufacturing process does not reduce the life limit of certain TR blades and that a new life limit is not needed for certain other blades. Affected parts can continue operation until the normal life limit with no compensation factor applied to reduce the life of the part. Therefore, the FAA has determined that AD action is not appropriate.

Withdrawal of the NPRM constitutes only such action and does not preclude the FAA from further rulemaking on this issue, nor does it commit the FAA to any course of action in the future.

Comments

The FAA gave the public the opportunity to comment on the NPRM. The following presents the comments received on the NPRM and the FAA's response to each comment.

Request To Withdraw NPRM

Airbus Helicopters requested that the NPRM be withdrawn. The commenter stated that EASA would be cancelling EASA AD 2018–0168, dated July 27, 2018, which prompted this NPRM. The commenter also noted that Airbus Helicopters service information was revised to remove the reduced life limit for the TR blades.

The FAA agrees with the commenter's request. Since publication of the NPRM, EASA has issued EASA AD 2018–0168R1, dated December 18, 2020 (EASA AD 2018–0168R1). EASA has determined, and the FAA concurs, that the deviation in the new manufacturing process does not affect the life limit of the TR blades. Airbus Helicopters has revised the corresponding service information accordingly. The revised EASA AD allows continued operation of

the affected parts until the normal life limit. The FAA has determined that this NPRM is unnecessary and will withdraw this NPRM.

Request To Delay Issuance of the AD

One commenter requested that the FAA delay issuance of the final rule because Airbus Helicopters had revised its service information to restore the original life limits of the TR blades, and based on the revised service information it would appear that EASA will issue a revised AD to revise the life limits accordingly. The commenter asked that the revised EASA AD be taken into account in the final rule.

The FAA acknowledges the commenter's request. As previously stated, the FAA has determined that this NPRM is unnecessary and will withdraw this NPRM.

Request To Include Link To Document Referenced in the NPRM

One commenter requested that the FAA provide a link in the NPRM to the EASA AD that is referred to in the NPRM. The commenter stated that if it is the FAA's new policy to refer to another Civil Aviation Authority's AD it would be more convenient for operators to have a link instead of having to search another website.

The FAA acknowledges the commenter's request. If the FAA would have issued a final rule, the EASA AD would have been incorporated by reference. The material that is incorporated by reference in an FAA AD is available in the AD docket on the internet at *https://www.regulations.gov* by searching for and locating the applicable AD docket. The AD docket contains the NPRM, any comments received, material that is incorporated by reference, and other information. As previously stated, the FAA has determined that this NPRM is unnecessary and will withdraw this NPRM.

FAA's Conclusions

Upon further consideration, the FAA has determined that the NPRM is unnecessary. Accordingly, the NPRM is withdrawn.

Regulatory Findings

Since this action only withdraws an NPRM, it is neither a proposed nor a final rule. This action therefore is not covered under Executive Order 12866, the Regulatory Flexibility Act, or DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979).

List of Subjects in 14 CFR Part 39

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

The Withdrawal

■ Accordingly, the notice of proposed rulemaking, Docket No. FAA–2020–0985, which was published in the **Federal Register** on November 9, 2020 (85 FR 71286), is withdrawn.

Issued on March 25, 2021.

Gaetano A. Sciortino,

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

[FR Doc. 2021–06768 Filed 4–1–21; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2021–0254; Project Identifier MCAI–2020–00481–R]

RIN 2120–AA64

Airworthiness Directives; Airbus Helicopters Deutschland GmbH Helicopters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to adopt a new airworthiness directive (AD) for all Airbus Helicopters Deutschland GmbH Model MBB–BK 117 D–2 helicopters. This proposed AD was prompted by reports of chafing marks on the wiring harness behind the middle side panels in the area of the front passenger (PAX) panels. This proposed AD would require inspecting, modifying, and rerouting the wiring harness, as specified in a European Union Aviation Safety Agency (EASA) AD, which is proposed for incorporation by reference (IBR). 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 May 17, 2021.

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 is proposed for IBR in this AD, contact the EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; telephone +49 221 8999 000; email *ADs@easa.europa.eu;* internet *www.easa.europa.eu.* You may find this material on the EASA website at *https://ad.easa.europa.eu.* You may view this material at the FAA, Office of the Regional Counsel, Southwest Region, 10101 Hillwood Pkwy., Room 6N–321, Fort Worth, TX 76177. For information on the availability of this material at the FAA, call 817–222–5110. It is also available in the AD docket on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2021–0254.

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–2021–0254; 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: Blaine Williams, Aerospace Engineer, Los Angeles ACO Branch, Compliance & Airworthiness Division, 3960 Paramount Blvd., Lakewood, California 90712; telephone 562–627–5371; email *blaine.williams@faa.gov.*

SUPPLEMENTARY INFORMATION:

Comments Invited

The FAA invites you to send any written relevant data, views, or arguments about this proposal. Send your comments to an address listed under **ADDRESSES**. Include ''Docket No. FAA–2021–0254; Project Identifier MCAI–2020–00481–R'' 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 proposal because of 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 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

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 Blaine Williams, Aerospace Engineer, Los Angeles ACO Branch, Compliance & Airworthiness Division, 3960 Paramount Blvd., Lakewood, California 90712; telephone 562–627–5371; email *blaine.williams@faa.gov.* Any commentary that the FAA receives that 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 2019–0305, dated December 17, 2019 (EASA AD 2019–0305) to correct an unsafe condition for all Airbus Helicopters Deutschland GmbH Model MBB–BK117 D–2 helicopters.

This proposed AD was prompted by reports of chafing marks found on the wiring harness behind the middle side panels, in the area of the front PAX panels. According to EASA, subsequent investigations identified low clearance between the harness and the surrounding structure. Airbus Helicopters identified the cause of the chafing marks as contact of the harness with the front PAX panel screws. The FAA is proposing this AD to prevent failure of the helicopter wiring harness. See the EASA AD for additional background information.

Related Service Information Under 1 CFR Part 51

EASA AD 2019–0305 specifies inspecting the wiring harness installed behind the front PAX panel of the left and right hand middle side panels and depending on the results, repairing or modifying the wiring harness. For a modified wiring harness, EASA AD 2019–0305 specifies repetitively inspecting for damage.

The FAA also reviewed Airbus Helicopters Alert Service Bulletin (ASB) No. MBB–BK117 D–2–88A–003, Revision 1 and dated December 9, 2019 (ASB MBB–BK117 D–2–88A–003). ASB MBB–BK117 D–2–88A–003 applies to Model MBB–BK–117 D–2 and D–2m helicopters. This service information specifies inspecting, repairing, and modifying the wiring harness installed behind the front PAX panel of the left and right hand middle side panels. 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

These products have been approved by the aviation authority of another country, and are approved for operation in the United States. Pursuant to the bilateral agreement with the State of Design Authority, the FAA has been notified of the unsafe condition described in the EASA AD referenced above. The FAA is proposing this AD after evaluating all the relevant information and determining the unsafe condition described previously is likely to exist or develop in other products of the same type designs.

Proposed AD Requirements

This proposed AD would require accomplishing the actions specified in EASA AD 2019–0305, described previously, as incorporated by reference, except for any differences identified as exceptions in the regulatory text of this proposed AD and except as discussed under ''Differences Between this Proposed AD and EASA AD 2019–0305.''

Explanation of Required Compliance Information

In the FAA's ongoing efforts to improve the efficiency of the AD process, the FAA initially worked with Airbus and EASA to develop a process to use certain EASA ADs as the primary source of information for compliance with requirements for corresponding FAA ADs. The FAA has since coordinated with other manufacturers and civil aviation authorities (CAAs) to use this process. As a result, EASA AD 2019–0305 will be incorporated by reference in the FAA final rule. This proposed AD would, therefore, require compliance with EASA AD 2019–0305 in its entirety, through that incorporation, except for any differences identified as exceptions in the regulatory text of this proposed AD. Using common terms that are the same as the heading of a particular section in the EASA AD does not mean that operators need comply only with that section. For example, where the AD requirement refers to ''all required actions and compliance times,'' compliance with this AD requirement is not limited to the section titled ''Required Action(s) and Compliance Time(s)'' in the EASA AD. Service information specified in EASA AD 2019–0305 that is required for compliance with EASA AD 2019–0305 will be available on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2021–0254 after the FAA final rule is published.

Differences Between This Proposed AD and EASA AD 2019–0305

Where the EASA AD refers to flight hours, this proposed AD would use hours time-in-service (TIS) instead. Where the EASA AD allows a tolerance to the compliance time of certain initial and repetitive inspections, this proposed AD would require a compliance time of within 440 hours TIS after modification of an affected part for a certain initial inspection and thereafter at intervals within 440 hours TIS for certain repetitive inspections instead. Where the EASA AD requires repetitive inspections in accordance with paragraph 3.B.8. of ASB MBB–BK117 D–2–88A–003, this proposed AD would require repetitive inspections in accordance with paragraph 3.B.9. of ASB MBB–BK117 D–2–88A–003.

Costs of Compliance

The FAA estimates that this AD affects 60 helicopters of U.S. Registry. Labor rates are estimated at $85 per work-hour. Based on these numbers, the FAA estimates that operators may incur the following costs in order to comply with this proposed AD.

Inspecting the wiring harness would take about 6 work-hours for an estimated cost of $510 per helicopter and $30,600 for the U.S. fleet, per inspection cycle.

Modification during the inspection of the wiring harness would take about 6 work-hours for an estimated cost of $510 per helicopter.

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:

Airbus Helicopters Deutschland GmbH: Docket No. FAA–2021–0254; Project Identifier MCAI–2020–00481–R.

(a) Comments Due Date

The FAA must receive comments by May 17, 2021.

(b) Affected Airworthiness Directives (ADs)

None.

(c) Applicability

This AD applies to all Airbus Helicopters Deutschland GmbH Model MBB–BK 117 D–2 helicopters, certificated in any category.

(d) Subject

Joint Aircraft System Component (JASC) Code: 1497, Miscellaneous Wiring.

(e) Reason

This AD was prompted by reports of chafing marks found on the wiring harness behind the middle side panels, in the area of the front passenger panels. Further investigations identified low clearance between the harness and the surrounding structure. Airbus Helicopters identified the cause of the chafing marks as contact of the harness with the front passenger panel screws. The FAA is issuing this AD to prevent electrical failure of the helicopter wiring harness.

(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, EASA AD 2019–0305, dated December 17, 2019 (EASA AD 2019–0305).

(h) Exceptions to EASA AD 2019–0305

(1) Where EASA AD 2019–0305 refers to its effective date, this AD requires using the effective date of this AD.

(2) Where EASA AD 2019–0305 refers to flight hours (FH), this AD requires using hours time-in-service (TIS).

(3) Where paragraph (6) of EASA AD 2019–0305 specifies a compliance time for the initial inspection of within 400 flight hours after the modification of an affected part and thereafter at intervals not exceeding 400 flight hours, plus a non-cumulative tolerance of 40 flight hours, this AD requires a compliance time of within 440 hours TIS after the modification of an affected part for the initial inspection and thereafter at intervals not exceeding 440 hours TIS.

(4) Where paragraph (6) of EASA AD specifies repetitive inspections in accordance with paragraph 3.B.8. of the referenced Alert Service Bulletin (ASB), this AD requires repetitive inspections in accordance with paragraph 3.B.9. of ASB No. MBB–BK117 D–2–88A–003, Revision 1 and dated December 9, 2019.

(5) Where the service information referenced in EASA AD 2019–0305 specifies to use tooling, equivalent tooling may be used.

(6) The ''Remarks'' section of EASA AD 2019–0305 does not apply to this AD.

(i) Special Flight Permit

Special flight permits, as described in 14 CFR 21.197 and 21.199, are not allowed.

(j) Alternative Methods of Compliance (AMOCs)

(1) The Manager, 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 manager of the 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-AVS-AIR-730-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.

(k) Related Information

(1) For EASA AD 2019–0305, contact the EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; telephone +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, Office of the Regional Counsel, Southwest Region, 10101 Hillwood Pkwy., Room 6N–321, Fort Worth, TX 76177. For information on the availability of this material at the FAA, call 817–222–5110. 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–2021–0254.

(2) For more information about this AD, contact Blaine Williams, Aerospace Engineer, Los Angeles ACO Branch, Compliance & Airworthiness Division, 3960 Paramount Blvd., Lakewood, California 90712; telephone 562–627–5371; email *blaine.williams@faa.gov.*

Issued on March 25, 2021.

Gaetano A. Sciortino,

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

[FR Doc. 2021–06767 Filed 4–1–21; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2020–0988; Airspace Docket No. 18–AWA–3]

Proposed Amendment of Class C Airspace and Revocation of Class E Airspace Extension; Fort Lauderdale, FL

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This action proposes to reconfigure and expand the Fort Lauderdale-Hollywood International Airport, FL (FLL), Class C airspace area. The FAA is proposing this action to reduce the risk of midair collisions and enhance the efficient management of air traffic operations in the FLL terminal area. Additionally, this action proposes to revoke the Class E airspace extension to the FLL Class C airspace surface area. This proposed action is separate and distinct from the South Florida Metroplex Project. No flight path changes are associated with this proposal.

DATES: Comments must be received on or before June 1, 2021.

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; telephone: (800) 647–5527, or (202) 366–9826. You must identify FAA Docket No. FAA–2020–0988; Airspace Docket No. 18–AWA–3, at the beginning of your comments. You may also submit comments through the internet at *https://www.regulations.gov.*

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

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

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

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

Comments Invited

Interested parties are invited to participate in 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 (FAA Docket No. FAA–2020–0988; Airspace Docket No. 18–AWA–3) and be submitted in triplicate to the Docket Management Facility (see **ADDRESSES** section for address and phone number). You may also submit comments through the internet at *https://www.regulations.gov.*

Commenters 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–2020–0988; Airspace Docket No. 18–AWA–3.'' The postcard will be date/time stamped and returned to the commenter.

All communications received on or before the specified comment closing date will be considered before taking action on the proposed rule. The proposal contained in this action may be changed in light of 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 NPRM

An electronic copy of this document may be downloaded through the internet at *https://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 **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 during normal business hours at the office of the Eastern Service Center, Federal Aviation Administration, Room 210, 1701 Columbia Ave., College Park, GA 30337.

Availability and Summary of Documents for Incorporation by Reference

This document proposes to amend FAA Order 7400.11E, Airspace Designations and Reporting Points, dated July 21, 2020, and effective September 15, 2020. FAA Order 7400.11E is publicly available as listed in the **ADDRESSES** section of this document. FAA Order 7400.11E lists Class A, B, C, D, and E airspace areas, air traffic service routes, and reporting points.

Background

In 1986, the FAA issued a final rule that established the Fort Lauderdale-Hollywood International Airport, FL, Airport Radar Service Area (ARSA) (51 FR 4872; February 7, 1986). As a result of the Airspace Reclassification final rule (56 FR 65638; December 17, 1991), which became effective in September 1993, the term ''Airport Radar Service Area'' was replaced by ''Class C airspace area.'' As with the former ARSA, the primary purpose of a Class C airspace area is to reduce the potential for midair collisions in terminal areas and promote the efficient management of air traffic in those areas. Pilots are required to establish two-way radio communications with air traffic control (ATC) before entering Class C airspace, and they must maintain two-way radio communications with ATC while

operating in Class C airspace. These requirements are designed to keep ATC informed of all aircraft operating within the Class C airspace area.

Developments Since the Origination of the FLL Class C Airspace Area

Despite significant increases in aircraft operations and passenger enplanements at FLL over the years, the FLL Class C airspace area has not been modified since its inception in 1986.

In 2014, runway 10R/28L was extended from 5,276 feet to 8,000 feet in length. The extension increased airport capacity by making two runways available to larger aircraft types instead of one.

In 2008, FLL hosted 309,624 total operations, and 11,400,548 passenger enplanements. By 2019, these numbers had grown to 331,455 total operations, and 17,950,989 passenger enplanements. With these figures, FLL actually meets the criteria to be a candidate for the establishment of a Class B airspace area. In 2009, the FAA considered converting the FLL Class C airspace area to Class B airspace. However, as discussed later in this NPRM, the FAA decided that the airspace safety and efficiency goals could be satisfied by expanding the FLL Class C airspace area instead.

Impact of FLL Class C Airspace Area Configuration on Operations

The current FLL Class C airspace area is not sufficient to accommodate the volume and diversity of aircraft operations in the congested South Florida airspace, nor the traffic patterns required by the increasing numbers of turbojet operations at FLL.

The current FLL Class C airspace configuration has the following impacts on operations at FLL:

1. Insufficient Class C airspace is available to provide for the most efficient arrival and departure operations at FLL. Significant numbers of visual flight rules (VFR) aircraft, which are not in contact with air traffic control (ATC), routinely operate in the same airspace outside of the FLL Class C area that is also used by aircraft operating to and from FLL. Under the proposal, these VFR aircraft would be required to establish contact with ATC enabling greater efficiency.

2. Controllers must alter the approach profile of instrument flight rules (IFR) arrival traffic when unknown VFR aircraft are transitioning a gap between the existing Miami (MIA) Class B and FLL Class C airspace areas. This gap, which is approximately 4–5 nautical miles (NM) wide, exists in the airspace between the current 10 NM radius of the FLL Class C airspace (to the west of FLL), and the existing MIA Class B airspace area to the northwest of MIA (in the vicinity of U.S. Route 27). VFR aircraft that are not in communication with ATC routinely transit this area and, in doing so, they climb or descend through the final approach courses and the downwind legs for FLL arrivals to runways 10L and 10R requiring commercial pilots to alter their flight path or altitude resulting in a disruption of the orderly flow of arrivals to the airport. Closing this airspace gap would enhance safety for FLL traffic.

3. Increases workload for air traffic controllers due to the need for additional vectoring of FLL arrivals and departures to ensure separation from VFR aircraft not in communication with ATC.

Benefits of Modifying the FLL Class C Airspace Area

Modifications of the current FLL Class C airspace area would enhance safety by lessening the likelihood of FLL arrivals and departures encountering unknown aircraft that are not in contact with ATC. The unique combination of high volumes of general aviation and commercial operations, plus intensive student pilot training, and transiting VFR aircraft that take place in the congested FLL terminal area support a proposal to expand the FLL Class C airspace area in the interest of safety and the efficient use of the airspace.

The FAA believes that users would benefit from participation in the proposed expanded availability of Class C services around FLL which include: sequencing of all aircraft to the primary airport (FLL); standard IFR services to IFR aircraft; separation, traffic advisories, and safety alerts between IFR and VFR aircraft; and, mandatory traffic advisories and safety alerts between VFR aircraft.

Local Area Airport Identifiers

For reference, the following airport identifiers are used in this NPRM:

BCT Boca Raton Airport
FLL Fort Lauderdale/Hollywood International Airport
FXE Fort Lauderdale Executive Airport
HWO North Perry Airport
MIA Miami International Airport
OPF Opa Locka Executive
PMP Pompano Beach Airpark
TMB Miami Executive Airport
X51 Miami Homestead General Aviation Airport

Pre-NPRM Public Input

In 2010, the FAA initiated action to form an Ad Hoc Committee (Committee) to seek input and recommendations from representatives of effected aviation segments for the FAA to consider in designing proposed modifications to the Miami International Airport (MIA), Class B airspace area, and to convert the FLL Class C airspace area to Class B airspace. Participants in the Committee included representatives from the Aircraft Owners and Pilots Association (AOPA), Miami-Dade Aviation Department, Miami-Dade Police Department Aviation Unit, Florida DOT, Broward County Aviation Department, Opa-Locka Helicopters, ADF Airways, Sheltair Aviation, National Jets, Aerial Banners, Delta Connection, Florida Aero Club, and Van Wagner Aerial Media.

Discussion of Ad Hoc Committee Recommendations

The Ad Hoc Committee submitted three recommendations for the FAA to consider in designing proposed modifications of the MIA Class B airspace area, and the proposed conversion of the FLL Class C airspace area to Class B airspace.

The Committee recommended that the FAA align the boundaries of the Class B airspace with prominent geographical features (visual landmarks) whenever possible.

The FAA agrees and tries to adopt the use of geographical features whenever possible. However, areas that overlie the Atlantic Ocean and the Florida Everglades lack prominent landmarks. Currently, there are approximately 25 VFR checkpoints, four VFR waypoints, and five latitude/longitude points depicted on the VFR Flyway Planning Chart in the MIA/FLL area. The FAA is considering additional points to enhance VFR navigation in the area.

The Committee recommended that the FAA establish a VFR Corridor between 3,000 feet and 5,000 feet mean sea level (MSL) that extends from the northern edge of FLL's airspace to the southern edge of MIA's airspace, to permit north-south transition of aircraft. The Committee suggested that this would be similar to the Los Angeles Special Flight Rules Area, which traverses the Los Angeles Class B airspace. Very High Frequency Omnidirectional Range (VOR) radials should be used to define the centerline of the Corridor enabling both VOR and GPS equipped aircraft to navigate the corridor.

The FAA could not adopt this recommendation because a VFR corridor is essentially a ''tunnel'' through Class B airspace within which aircraft may operate without an ATC Clearance or communication with ATC. For this reason, a VFR Corridor is not feasible for this area based on

operational constraints such as traffic volume and traffic flows. MIA arrival traffic descends from 8,000 feet MSL to 3,000 feet MSL in the downwind leg. Departures climb to 5,000 feet MSL initially, and aircraft executing a go-around climb to either 3,000 feet MSL or 4,000 feet MSL. For FLL, arrivals descend from 6,000 feet MSL to 3,000 feet MSL in the downwind leg. Departures climb to 3,000 feet MSL initially, and aircraft executing a go-around climb to 2,000 feet MSL or 3,000 feet MSL. Since aircraft could operate in the corridor without an ATC clearance or communication with ATC, this would present a safety hazard, especially during irregular operations, such as weather impacting the normal arrival and departure routes.

Alternatively, there is a charted VFR Flyway below 3,000 feet MSL, running generally north and south, that is located beneath the western side of the MIA Class B airspace area. Additionally, an east-west oriented Flyway below 2,000 feet MSL is located to the south of Hollywood North Perry airport (HWO), and to the north of Miami-Opa Locka Executive airport (OPF).

The Committee recommended that the FAA develop ''shoreline transitions'' for VFR aircraft through the Class B airspace. Specifically, this would accommodate pilots who desire to operate over or near the shoreline east of FLL. The Committee added that the FAA should publish information on Sectional and Terminal Area Charts (TAC) to advise aircraft requesting shoreline transitions to contact MIA Approach; including frequencies, designated entry and exit points, expected altitudes, and times requests may be approved.

The FAA reviewed this recommendation and, although shoreline transitions do exist in the Miami area, due to the close proximity of FLL to the shoreline, a shoreline transition is not feasible in that area.

After full consideration of the Committee's discussions and recommendations, the FAA decided to pursue an alternative airspace design for FLL. Rather than converting the Class C airspace area at FLL to Class B airspace, the FAA proposes to retain, but expand, the existing FLL Class C airspace area. This alternative would provide all the benefits that could be achieved with the original FLL Class B concept but with less impact on local VFR and general aviation operations. This NPRM proposes modifications to the FLL Class C airspace area. The proposed modifications of the MIA Class B airspace area was addressed in a separate NPRM. (86 FR 12868, March 5, 2021).

Discussion of Informal Airspace Meeting Comments

As announced in the **Federal Register** on December 4, 2012, the FAA conducted three informal airspace meetings: January 28, 2013, at the Wings Over Miami Air Museum, Miami, FL; January 29, 2013, at Miami Dade College, Miami, FL; and January 30, 2013, Miramar Town Center, Miramar, FL. (77 FR 71734). Additionally, as announced in the **Federal Register** on April 1, 2019, the FAA also held one informal airspace meeting on June 12, 2019, at Broward College, Pembroke Pines, FL. (84 FR 12146). These meetings provided interested airspace users with an opportunity to present their views and offer recommendations regarding the planned modification of the FLL Class C airspace area. The FAA received comments from 32 individuals in response to the four meetings. The FAA received a number of comments from the January 2013 meetings that pertained specifically to the proposed modification of the MIA Class B airspace area. Those comments are addressed in a separate NPRM that proposes to modify the MIA Class B airspace. The NPRM was published in the **Federal Register** on March 5, 2021 (86 FR 12868). You may read the MIA Class B NPRM on the internet at *https://www.regulations.gov.* Enter the search term FAA–2020–0490.

January 2013 Informal Airspace Meeting Comments

Many commenters asked that the FLL Class C airspace boundaries be based on visual ground references such as highways and landmarks to assist VFR pilots in identifying the lateral boundaries of the area. One commenter wrote that the FAA should consider a physical feature, such as University Avenue, to define the western side of the Class C surface area's 7 NM radius.

The FAA agrees and has incorporated well-known roads such as U.S. Route 27, I–75, Oakland Park Boulevard, etc., into the proposed description of the FLL Class C airspace area. Regarding a reference for the surface area, a suitable pilotage landmark that is already charted is the Snake Creek Canal that runs parallel to Flamingo Road in Broward County. The canal is about 1 to 2 miles outside the western edge of the surface area. Use of that visual landmark would ensure that VFR pilots remain clear of the surface area.

A commenter wrote that, with the expansion of the Class C airspace area, it is important that adequate ATC staffing be provided to handle the higher number of VFR aircraft transitioning the area.

The proposed airspace change would affect the Miami Terminal Radar Approach Control (TRACON) controller workload with an anticipated increase of aircraft requesting flight following services. Miami TRACON provides IFR services to traffic operating to and from FLL. The comment is valid and actions have been taken to address this concern. Considering the anticipated greater workload, the FAA has increased the utilization of additional radar positions that provide relief for controllers working the Opa Locka Executive Airport (OPF)/North Perry Airport (HWO) area. These additional positions split the workload in half (east side and west side) and provide extra capacity to handle flight following services. It is suggested that pilots consider obtaining a discrete transponder code from air traffic control before takeoff to ensure that flight following in VFR conditions can commence shortly after departure.

One commenter suggested that the FAA consider a VFR Corridor within the Class C airspace that takes VFR aircraft from the coast to overhead FLL at 1,500 feet MSL southbound, and 2,000 feet MSL northbound, and back out to the coast.

The procedures for overflights at FLL are governed by a Letter of Agreement (LOA) between MIA ATCT and FLL ATCT. Aircraft operating from the coast to transition over FLL may currently contact FLL ATCT to transition at or below 1,000 feet MSL along the shoreline. Aircraft transitioning VFR over FLL, in communication with MIA TRACON, are provided transition at or above 2,500 feet MSL. The 2,500-foot restriction is intended to allow aircraft on a missed approach climb to 2,000 feet MSL per the LOA. A designated VFR corridor at 1,500 feet MSL or 2,000 feet MSL is not feasible due to traffic volume and the provisions of the LOA.

Several commenters were concerned that the Class C expansion would encroach upon student pilot training in the practice areas, such as alert areas A–291B and A–291C, by reducing the airspace available for training in this congested area. Additionally, a commenter noted that numerous flight schools operate out of FXE. There is concern that the proposed northern boundary of the Class C airspace area could eliminate an avenue for student pilots transitioning to and from the practice areas. The commenter argued that this might cause flight schools to cease operations at FXE.

The current floor of Class C airspace over FXE is at 1,200 feet MSL. The FAA

proposes to establish Class C Area F (described below) over FXE. Area F would be bounded in the north along lat. 26°13′53″N (aligned with the eastern portion of Atlantic Boulevard located in Pompano Beach), which lies to the north of FXE. To the south of FXE, the southern boundary of Area F would be defined by lat. 26°10′03″N (aligned with the eastern most portion of Oakland Park Boulevard located in Lauderdale Beach). The floor of Class C airspace in Area F would be 2,500 feet MSL instead of the current 1,200 feet MSL. The change would provide more room for operations to and from FXE without the need for pilots to enter Class C airspace.

A commenter said that traffic flying to and from North Perry Airport (HWO) and Opa Locka Executive Airport (OPF) will be boxed in by the Class C 1,200-foot MSL shelf causing them to fly low when travelling to and from the northern areas. The commenter also stated that access to FXE and Pompano Airpark (PMP) would be greatly decreased by the requirement to fly below 1,200 feet MSL.

Aircraft operating to and from HWO and OPF can still transition below the MIA Class B airspace area below 3,000 feet MSL to join the charted VFR Flyways beneath the MIA Class B and the proposed FLL Class C airspace areas. The 2,500-foot MSL Class C floor in the proposed Area F (discussed above) would enhance access to HWO and PMP. Note that PMP is outside the proposed northern boundary of the Class C airspace area.

Another commenter flying from HWO said that the western most edge of the FLL Class C airspace area should run along U.S. Route 27. According to the commenter, for students flying out over the Everglades, U.S. Route 27 is the last visual reference they could use to tell if they are clear of the Class C airspace and it is safe to climb. Without that reference, according to the commenter, students would have to fly out much farther to ensure they are actually clear of the Class C airspace.

U.S. Route 27 marks the eastern boundary of proposed FLL Class C Area C, which would extend westward to the 25 NM radius of FLL. The floor of Area C would be at 3,000 feet MSL. U.S. Route 27 could still be used as a visual reference to indicate the point beyond which an altitude below 3,000 feet MSL would be clear of the proposed FLL Class C airspace area. Additionally, a canal intersecting a pumping station along Interstate I–75 can be used as a visual landmark for the western most portion of Area C. There is also a major rest area on the highway at that location.

A commenter highlighted another concern about the current Class C configuration involving FXE. The commenter stated that when FXE ATCT issues a right downwind departure off runway 9, the pilot has to rush to get acknowledged by Miami Approach in order to not violate the Class C airspace area. The commenter asked if the north end of the Class C could be sliced off at Oakland Park Boulevard; or, if not, could the floor of the Class C north of Oakland Park Boulevard be raised to 1,600 feet MSL or more.

The FAA determined that the northern boundary of the FLL Class C airspace area could not be set along Oakland Park Boulevard as suggested. Oakland Park Boulevard conflicts with the proposed Class C surface area. The current Class C extends well above Oakland Park Boulevard. Setting the northern boundary of the Class C along Atlantic Boulevard instead provides more vectoring room north of FLL. The proposed Class C modification would establish Area F, with a floor of 2,500 feet MSL, over FXE. This would provide more room that is beneath the Class C airspace to accommodate the downwind departure.

Two commenters raised the issue that setting the Class C airspace floor at 1,200-foot MSL, 14 NM from the airport, as contained in the original proposal, seems unprecedented. The commenter suggested some interim altitude, such as 1,600 feet MSL, would give users more flexibility.

After consideration of the comment, the FAA is modifying the proposal by adding a FLL Class C Subarea E (described below) that would be bounded on the east by Interstate I–75, and on the west by U.S. Route 27. The proposed floor of the Class C airspace in Area E would be 1,500 feet MSL instead of the original 1,200 feet MSL. Aircraft operating at FLL already overfly this area. The objective of this airspace proposal is to provide the least restrictive, yet safe operation in the terminal area.

One commenter contended that ATC never clears aircraft through Class C airspace, except for occasional direct overflights.

FAA records show that, in the 12 months ending May 31, 2017, FLL ATCT worked 313,802 operations with 303 IFR overflights and 16,234 VFR overflights.

A commenter stated that the substantial extensions of Class C airspace east and west of FLL would force pilots to fly deeper into the everglades or farther out to sea to avoid the Class C airspace. The commenter added that, if the changes are implemented, Flyways should be created for both VFR and IFR traffic whose destinations are within the South Florida area.

The FAA acknowledges these concerns. However, considering this extremely busy and congested South Florida airspace that includes intensive student flight training, a high volume of VFR transit operations, as well as large numbers of commercial operations, the proposed FLL Class C airspace modifications are essential to maintaining safety and reducing the risk of midair collisions in the terminal area. A north-south oriented VFR Flyway, below 3,000 feet MSL, is currently depicted on the Miami VFR Flyway Planning Chart (on the reverse side of the Miami Terminal Area Chart). This Flyway is located beneath the western side of the Miami Class B airspace area, and the proposed FLL Class C airspace area. The FAA is also considering additional Flyways though the area.

June 2019 Informal Airspace Meeting Comments

Over 60 people attended the June 2019 informal airspace meeting.

Two commenters expressed concerns that receiving VFR flight following in the area can be challenging due to air traffic controller workload, and that consideration should be given to adequate staffing to provide this additional service routinely. This comment was also received at the January 2013 informal airspace meetings.

The proposed airspace change would affect the Miami Terminal Radar Approach Control (TRACON) controller workload with an anticipated increase of aircraft requesting flight following services. Miami TRACON provides IFR services to traffic operating to and from FLL. The comment is valid and actions have been taken to address this concern. Considering the anticipated greater workload, the FAA has increased the utilization of additional radar positions that provide relief for controllers working the Opa Locka Executive Airport (OPF)/North Perry Airport (HWO) area. These additional positions split the workload in half (east side and west side) and provide extra capacity to handle flight following services. It is suggested that pilots consider obtaining a discrete transponder code from air traffic control before takeoff to ensure that flight following in VFR conditions can commence shortly after departure.

One commenter was concerned that the expansion of the FLL Class C airspace area would create a precedent for other locations.

The purpose of Class C airspace is to reduce the risk of midair collisions in the terminal area. A number of considerations are evaluated before determining whether an airport qualifies for the establishment or modification of a Class C airspace area. Proposed Class C airspace area designs are based on site-specific factors such as traffic volume and complexity.

A commenter suggested a north/south corridor be provided through the FLL Class C airspace area.

Procedures for overflights at FLL are governed by a LOA between Miami Airport Traffic Control Tower (ATCT) and FLL ATCT. Current procedures allow aircraft to transition over FLL at 2,500 feet MSL under two-way radio communication with ATC at Miami TRACON; or at low level over the shoreline after establishing two-way radio communication with FLL ATCT. Both transitions provide protection from aircraft departing/arriving at FLL. Currently, if ATC is unable to approve a transition request, the charted VFR Flyways to the west of FLL are available as an option.

Another commenter said that ATC LOAs should be published for easy access by pilots.

As an initial matter, this comment falls outside the scope of this rulemaking. Moreover, LOAs between ATC facilities outline procedures between facilities to allow for a standard operation, such as interfacility coordination, etc. LOAs do not dictate procedures that pilots who are not operating under ATC instructions need to follow. Because LOAs outline the handling of aircraft and interaction between ATC facilities, they are not made readily available to pilots. Whenever a pilot is uncertain about an ATC clearance or instruction, that pilot must immediately request clarification from ATC.

A commenter stated that expansion of the FLL Class C airspace area should conform to readily recognized landmarks, such as canals, and streets, to describe the boundaries.

The FAA agrees and, where feasible, has amended the proposed FLL Class C airspace area description to use various streets, such as U.S. Route 27, Interstate 75, Oakland Park Boulevard, etc., to define the boundaries.

Four commenters cited concerns that the originally proposed northern boundary of the FLL Class C airspace area, located just south of Pompano Beach Airpark (PMP), with a floor of 1,200 feet MSL, would interfere with Class D airspace operations at FXE and PMP. The commenters requested that the Class C airspace north of FLL be modified to provide a cutout with a higher floor allowing increased clearance for VFR access to Fort Lauderdale Executive Airport (FXE).

Based on previous public comments with the same concern, the FAA raised the proposed floor of the Class C airspace shelf over FXE to 2,500 feet MSL and moved the proposed northern Class C airspace boundary southward to align along the eastern portion of Atlantic Boulevard, located in Pompano Beach. These changes allow VFR aircraft to safely maintain separation from FLL arrival and departure traffic, while maximizing the amount of operational airspace available for pilots operating VFR.

One commenter requested the FAA form a new Ad Hoc Committee to provide updated recommendations regarding the proposed airspace design.

The FAA originated the Ad Hoc Committee concept as a means to get preliminary user input during the initial design phase of Class B and C airspace proposals, prior to the issuance of an NPRM.

The FAA carefully considered the request to form a second Ad Hoc Committee. Although significant time has elapsed since the Committee submitted its report, its recommendations remain valid. After full consideration of the Committee's concerns and recommendations, including the Committee's stated desire that the FAA mitigate the impact to operators outside the Class B airspace area, and improve the design originally presented to the Committee, the FAA re-evaluated the airspace design requirements for the airspace surrounding MIA and FLL. Based on that re-evaluation, the FAA will pursue the alternative to retain, but modify, Class C airspace at FLL, as well as modifying the MIA Class B airspace. This would result in less impact to the VFR and general aviation communities. Further, the public comments received in response to the informal airspace meetings held in 2013 and 2019 led to changes that were incorporated into the proposed airspace designs.

Based on the above, the FAA concluded that sufficient initial feedback was received so that the FAA could develop and publish the airspace proposal in an NPRM. The NPRM's 60-day comment period provides an additional opportunity for the public to submit their views on the proposed FLL Class C airspace modification. Therefore, the FAA has decided against reforming an Ad Hoc Committee for this proposal.

The Proposal

The FAA is proposing an amendment to 14 CFR part 71 to modify the FLL Class C airspace area by expanding the lateral dimensions to the east and west of the airport, and lowering of some airspace floors to enhance safety in the Fort Lauderdale terminal area (see the attached chart).

The current FLL Class C airspace area consists of two concentric circles centered on the airport reference point: (1) That airspace extending upward from the surface to 4,000 feet MSL within a 5 NM radius of the airport; and (2) that airspace extending upward from 1,200 feet MSL to 4,000 feet MSL within a 10 NM radius of the airport. (excluding the airspace within the adjacent Miami Class B airspace area).

This proposal would update the FLL airport reference point coordinates to read ''lat. 26°04′18″ N, long. 80°08′59″ W'' which reflects the latest information in the Airport Master Records file. In addition, the proposal would reconfigure the Class C airspace area from the two concentric circles design, to a more rectangular shape consisting of seven sub-areas identified by the letters A though G. The foot print of the area would be expanded to the east and west, but the current 4,000-foot MSL ceiling of the Class C airspace area would be retained. The proposed modifications are described below. In developing these modifications, the FAA has considered the input received from the Ad Hoc Committee, and the informal airspace meetings.

Area A. The proposed Area A is a modification of the current surface area that extends from ground level upward to 4,000 feet MSL. Area A would be expanded from the current 5 NM radius of FLL, to a 7 NM radius of the airport. It would be bounded on the north by lat. 26°10′03″N (the eastern most portion of Oakland Park Boulevard located in Lauderdale Beach); and bounded on the south by a 15 NM radius of the Miami International Airport; and on the southeast by lat. 26°00′39″N (the eastern most portion of Hollywood Boulevard located in Hollywood).

Setting the northern boundary of Area A along lat. 26°10′03″N would allow Fort Lauderdale Executive Airport (FXE) to continue using south downwind departures from the airport and return most of the FXE Class D airspace area altitudes to FXE ATCT for their use. The proposed southeastern boundary of Area A would allow aircraft departing North Perry Airport (HWO) and Opa Locka Executive Airport (OPF) more room to transition to the east overwater.

Area B. Area B, located west of Area A, would extend upward from 1,200 feet MSL to 4,000 feet MSL. It would be bounded on the north by lat. 26°10′03″N; on the west by State Road 869/Sawgrass Expressway, Interstate 595 and Interstate 75; on the south by the 15 NM radius of Miami International Airport; and on the east by the 7 NM radius of FLL (the western boundary of Area A). The use of existing major roadways would give VFR pilots better awareness of the airspace boundaries.

Area C. Area C would be located at the western end of the Class C expansion. It would extend upward from 3,000 feet MSL to 4,000 feet MSL. Area C would be bounded on the north by lat. 26°13′53″N (aligned with the eastern portion of Atlantic Boulevard located in Pompano Beach) (which is also the proposed northern boundary of FLL Class C airspace area); on the west by the 25 NM radius of FLL; on the south by lat. 25°57′48″N; on the southeast by the 15 NM radius of MIA; and on the east by U.S. Route 27. Route 27 was selected as the eastern boundary based on suggestions that visual references be used to provide better situational awareness for VFR pilots.

Area D. Area D would be located at the eastern end of the Class C expansion. It would extend upward from 3,000 feet MSL to 4,000 feet MSL. It would be bounded on the north by lat. 26°13′53″N (aligned with the eastern portion of Atlantic Boulevard located in Pompano Beach); on the east by the 25 NM radius of FLL; on the south by lat. 26°00′39″N (the eastern most portion of Hollywood Boulevard located in Hollywood); and on the west by the 20 NM radius of FLL. Area D would form the eastern most section of the proposed FLL Class C airspace area. In the original design, the Class C floor in Area D was proposed to be 2,500 feet MSL. To accommodate concerns, the proposed floor is raised to 3,000 feet MSL to give VFR pilots a little more room to transition beneath the area.

Area E. Area E would extend upward from 1,500 feet MSL to 4,000 feet MSL. It would be bounded on the north by lat. 26°10′03″N (the eastern most portion of Oakland Park Boulevard located in Lauderdale Beach); on the east by the north-south portion of Interstate I–75 and State Road 869/Sawgrass Expressway; on the south by the 15 NM radius of MIA; and on the west by U.S. Route 27. Area E would be located between Areas B and C.

A goal of the design of Area E is to resolve an issue caused by the configurations of the current MIA Class B airspace and the FLL Class C airspace areas. A gap, approximately 4–5 NM wide, exists in the airspace between the current 10 NM radius of FLL's Class C airspace (to the west of the airport), and the existing MIA Class B airspace area to the northwest of MIA (in the vicinity of U.S. Route 27). VFR aircraft that are not in communication with ATC frequently transit this gap and are climbing or descending through the final approach courses and the downwind legs for FLL arrivals to runways 10L/10R. The proposed design of Area E is intended to close this gap to enhance safety for both FLL traffic and the transiting VFR aircraft. The original proposal set the Class C airspace floor in this area at 1,200 feet MSL. Due to concerns about restricting VFR aircraft transiting the area, the proposed Area E floor is raised to 1,500 feet MSL to give VFR aircraft more room to transition north and south. The use of existing major roadways to mark the boundaries gives VFR pilots better situational awareness of the lateral confines of Area E.

Area F. Area F would extend upward from 2,500 feet MSL to 4,000 feet MSL. The area's boundaries would begin at a point northwest of FLL where U.S. Route 27 intersects lat. 26°13′53″N (aligned with the eastern portion of Atlantic Boulevard in Pompano Beach); thence moving east along lat. 26°13′53″N to a point that intersects the 20 NM radius of FLL; thence moving clockwise along the 20 NM radius of FLL to a point that intersects lat. 26°00′39″N; (the eastern most portion of Hollywood Boulevard located in Hollywood); thence moving west along lat. 26°00′39″N to a point that intersects the 15 NM radius of FLL; thence moving counter-clockwise along the 15 NM radius of FLL to a point that intersects lat. 26°10′03″N (the eastern most portion of Oakland Park Boulevard located in Lauderdale Beach); thence moving west along lat. 26°10′03″N to a point that intersects U.S. route 27; thence moving north along U.S. Route 27 to the point of beginning. Area F forms the northern shelf of the FLL Class C airspace area, running east and west between areas C and D, as well as a north/south segment running between Areas G and D.

With today's FLL Class C airspace configuration, the floor of Class C airspace over FXE is 1,200 feet MSL. This 1,200-foot floor extends right up to PMP. Within the proposed Area F, the Class C airspace floor would be raised to 2,500 feet MSL over FXE, and the northern boundary of Class C airspace would be moved farther to the south of PMP and aligned with the eastern portion of Atlantic Boulevard. This proposed 2,500-foot MSL Class C airspace shelf over FXE, and southward relocation of the northern Class C airspace boundary to be aligned with Atlantic Boulevard, provides a number of benefits, including: The use of visual references for airspace boundaries; better access for VFR pilots to the FXE and PMP areas; additional room below Class C airspace to accommodate downwind departures from FXE; better access for the flight schools based at FXE and PMP to airspace that is regularly used for flight training; and providing FXE and PMP ATCTs access to more altitudes within their Class D airspace areas.

Area G. Area G would extend upward from 1,200 feet MSL to 4,000 feet MSL. The area boundaries would begin at a point northeast of FLL where the 7 NM radius of FLL intersects lat. 26°10′03″N (the eastern most portion of Oakland Park Boulevard located in Lauderdale beach); thence moving clockwise along the 7 NM radius of FLL to a point that intersects lat. 26°00′39″N (the eastern most portion of Hollywood Boulevard located in Hollywood); thence moving east along lat. 26°00′39″N to a point that intersects the 15 NM radius of FLL; thence moving counterclockwise along the 15 NM radius of FLL to a point that intersects lat. 26°10′03″N; thence moving west along lat. 26°10′03″N, to the point of beginning. Area G would be located between Areas A and F.

In addition, this action proposes to remove the Class E airspace extension to the FLL Class C airspace surface area (which would become Class C within Area A). The proposed expansion of Area A from the current 5 NM radius, to a 7 NM radius, would overlie the Class E airspace extension rendering it unnecessary.

Class C airspace areas are published in paragraph 4000 of FAA Order 7400.11E, dated July 21, 2020 and effective September 15, 2002, which is incorporated by reference in 14 CFR 71.1. Class E airspace areas designated as an extension to a Class C surface area are published in paragraph 6003 of FAA Order 7400.11E. The Class C airspace area and Class E airspace extension modifications proposed in this document would be published subsequently in the Order.

Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)) requires that the FAA consider the impact of paperwork and other information collection burdens imposed on the public. The FAA has determined that there is no new information collection requirement associated with this proposed rule.

Regulatory Notices and Analyses

Changes to Federal regulations must undergo several economic analyses. First, Executive Order 12866 and Executive Order 13563 direct that each Federal agency shall propose or adopt a regulation only upon a reasoned determination that the benefits of the intended regulation justify its costs. Second, the Regulatory Flexibility Act of 1980 (Pub. L. 96–354) requires agencies to analyze the economic impact of regulatory changes on small entities. Third, the Trade Agreements Act (Pub. L. 96–39) prohibits agencies from setting standards that create unnecessary obstacles to the foreign commerce of the United States. In developing U.S. standards, this Trade Act requires agencies to consider international standards and, where appropriate, that they be the basis of U.S. standards. Fourth, the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4) requires agencies to prepare a written assessment of the costs, benefits, and other effects of proposed or final rules that include a Federal mandate likely to result in the expenditure by State, local, or tribal governments, in the aggregate, or by the private sector, of $100 million or more annually (adjusted for inflation with base year of 1995). This portion of the preamble summarizes the FAA's analysis of the economic impacts of this proposed rule.

In conducting these analyses, the FAA has determined that this proposed rule: (1) Is expected to have a minimal cost impact, (2) is not an economically ''significant regulatory action'' as defined in section 3(f) of Executive Order 12866, (3) is not significant under DOT's administrative procedure rule on rulemaking at 49 CFR 5.13; (4) not have a significant economic impact on a substantial number of small entities; (5) does not create unnecessary obstacles to the foreign commerce of the United States; and (6) does not impose an unfunded mandate on state, local, or tribal governments, or on the private sector by exceeding the threshold identified above. These analyses are summarized below.

As discussed above, the FAA determined that changes put forth in this proposed rule would increase airspace safety and efficiency. The proposed rule would reconfigure and expand the FLL Class C airspace. Despite significant increases in aircraft operations and passenger enplanements over the years, the FLL Class C airspace has not been modified since its inception in 1986. The current Class C airspace area is not sufficient to accommodate the volume of aircraft operations in the congested South Florida airspace, nor the traffic pattern required by the increasing numbers of turbojet operations at FLL. The goals of the proposal are to reduce the risk of midair collisions and increase efficiency of air traffic operations in the FLL terminals.

The proposed expansion to Class C airspace would affect the VFR and general aviation community. VFR operators would only need to make minor adjustments to accommodate the expansion. As mentioned above, the FAA considered recommendations from an Ad Hoc Committee as well as the four informal airspace meetings from the stakeholders on the planned modifications to the FLL airspace. The feedback resulted in changes to the airspace design with the intent of maintaining safety and minimizing the impact to operators using the surrounding airspace. Additionally, VFR operators can also use the current north-south charted VFR flyway below the 3,000-foot Class B floor to the west of MIA, which enables pilots to fly beneath the Class B, and east-west flyway below 2000 MSL located to the south of HWO, or to the north of Miami OPF. Therefore, the FAA expects the Class B modifications in this proposal would result in minimal cost to VFR operators. The FAA requests comments on the benefits and costs of this proposal to inform the final rule.

The discussion presented in this section reflects conditions that predate the public health emergency concerning the novel coronavirus disease (COVID–19) in 2020. At the time of writing, there is uncertainty surrounding the timing of recovery and the long-term effects from the public health emergency. To the extent that there are lingering or lasting changes to general aviation and air carrier operations, the benefits and costs of the FLL Class C airspace modification in this proposal may vary relative to the level of future operations.

Regulatory Flexibility Determination

The Regulatory Flexibility Act of 1980 (Pub. L. 96–354) (RFA) establishes ''as a principle of regulatory issuance that agencies shall endeavor, consistent with the objectives of the rule and of applicable statutes, to fit regulatory and informational requirements to the scale of the businesses, organizations, and governmental jurisdictions subject to regulation.'' To achieve this principle, agencies are required to solicit and consider flexible regulatory proposals and to explain the rationale for their actions to assure that such proposals are given serious consideration.'' The RFA covers a wide-range of small entities, including small businesses, not-for-profit organizations, and small governmental jurisdictions.

Agencies must perform a review to determine whether a rule will have a significant economic impact on a substantial number of small entities. If the agency determines that it will, the agency must prepare a regulatory flexibility analysis as described in the RFA. However, if an agency determines that a rule is not expected to have a significant economic impact on a substantial number of small entities, section 605(b) of the RFA provides that the head of the agency may so certify and a regulatory flexibility analysis is not required. The certification must include a statement providing the factual basis for this determination, and the reasoning should be clear.

The proposed rule would modify Class C airspace around FLL. The change would affect general aviation operators using the airspace at or near FLL. Operators flying VFR would need to adjust their flight paths to avoid the modified Class C airspace. However, the modifications to Class C airspace are intended to be the least restrictive option while enhancing safety. Additionally, VFR operators can also use the current north-south charted VFR flyway below the 3,000-foot Class B floor to the west of MIA, which enables pilots to fly beneath the Class B, and east-west flyway below 2000 MSL located to the south of HWO, or to the north of Miami OPF. VFR pilots have the option to contact ATC at Miami TRACON or FLL ATCT, and request flight following, if desired. Therefore, as provided in section 605(b), the head of the FAA certifies that this rulemaking would not result in a significant economic impact on a substantial number of small entities.

International Trade Impact Assessment

The Trade Agreements Act of 1979 (Pub. L. 96–39), as amended by the Uruguay Round Agreements Act (Pub. L. 103–465), prohibits Federal agencies from establishing standards or engaging in related activities that create unnecessary obstacles to the foreign commerce of the United States. Pursuant to these Acts, the establishment of standards is not considered an unnecessary obstacle to the foreign commerce of the United States, so long as the standard has a legitimate domestic objective, such as the protection of safety, and does not operate in a manner that excludes imports that meet this objective. The statute also requires consideration of international standards and, where appropriate, that they be the basis for

U.S. standards. The FAA has assessed the potential effect of this proposed rule and determined that it would improve safety and is consistent with the Trade Agreements Act.

Unfunded Mandates Assessment

Title II of the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4) requires each Federal agency to prepare a written statement assessing the effects of any Federal mandate in a proposed or final agency rule that may result in an expenditure of $100 million or more (in 1995 dollars) in any one year by State, local, and tribal governments, in the aggregate, or by the private sector; such a mandate is deemed to be a ''significant regulatory action.'' The FAA currently uses an inflation-adjusted value of $155 million in $100 million. This proposed rule does not contain such a mandate; therefore, the requirements of Title II of the Act do not apply.

ICAO Considerations

As part of this proposal relates to navigable airspace outside the United States, this notice is submitted in accordance with the International Civil Aviation Organization (ICAO) International Standards and Recommended Practices.

The application of International Standards and Recommended Practices by the Air Traffic Service, FAA, in areas outside the United States domestic airspace, is governed by the Convention on International Civil Aviation. Specifically, the FAA is governed by Article 12 and Annex 11, which pertain to the establishment of necessary air navigational facilities and services to promote the safe, orderly, and expeditious flow of civil air traffic. The purpose of Article 12 and Annex 11 is to ensure that civil aircraft operations on international air routes are performed under uniform conditions.

The International Standards and Recommended Practices in Annex 11 apply to airspace under the jurisdiction of a contracting state, derived from ICAO. Annex 11 provisions apply when air traffic services are provided and a contracting state accepts the responsibility of providing air traffic services over high seas or in airspace of undetermined sovereignty. A contracting state accepting this responsibility may apply the International Standards and Recommended Practices that are consistent with standards and practices utilized in its domestic jurisdiction.

In accordance with Article 3 of the Convention, state-owned aircraft are exempt from the Standards and Recommended Practices of Annex 11. The United States is a contracting state to the Convention. Article 3(d) of the Convention provides that participating state aircraft will be operated in international airspace with due regard for the safety of civil aircraft. Since this proposal involves, in part, the designation of navigable airspace outside the United States, the Administrator consulted with the Secretary of State and the Secretary of Defense in accordance with the provisions of Executive Order 10854.

The Department of State responded with no objection to the proposed expansion of the Miami Class B and Fort Lauderdale Class C airspace areas. The Department of Defense Policy Board on Federal Aviation (PBFA) concurred with comment on the proposal stating the following: ''We would like to document our concerns that extending these areas into international airspace places additional restrictions and equipage requirements on aircraft who normally transit this airspace. Additionally we believe such ATC expansions could set a precedent and encourage/allow foreign nations to exert more restrictive control measures in other international airspaces with no limits to the lateral confines, all in the name of commerce and safety.''

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.

List 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 the Federal Aviation Administration Order 7400.11E, Airspace Designations and Reporting Points, dated July 21, 2020, and effective September 15, 2020, is amended as follows:

Paragraph 4000—Subpart C—Class C Airspace

* * * * *

ASO FL C Fort Lauderdale-Hollywood International Airport, FL

Fort Lauderdale-Hollywood International Airport, FL
(Lat. 26°04′18″N, long. 80°08′59″W)

Boundaries

Area A. That airspace extending upward from the surface to and including 4,000 feet MSL within a 7 nautical mile radius of Fort Lauderdale-Hollywood International Airport, excluding the airspace North of lat. 26°10′03″ N (the eastern most portion of Oakland Park Boulevard located in Lauderdale Beach), and bounded on the south by a 15 nautical mile radius of Miami International Airport, and on the southeast by lat. 26°00′39″ N (the eastern most portion of Hollywood Boulevard located in Hollywood).

Area B. That airspace extending upward from 1,200 feet MSL to and including 4,000 feet MSL beginning at a point northwest of Fort Lauderdale-Hollywood International Airport at the intersection of a 7 nautical mile radius of Fort Lauderdale-Hollywood International Airport and lat. 26°10′03″ N, thence moving west along lat. 26°10′03″ N (the eastern most portion of Oakland Park Boulevard located in Lauderdale Beach), to a point that intersects State Road 869/Sawgrass Expressway, thence moving south along State Road 869/Sawgrass Expressway, [continuing south across the intersection of State Road 869/Sawgrass Expressway, Interstate 595, and Interstate 75], and continuing south along Interstate 75 to a point that intersects a 15 nautical mile radius of Miami International Airport, thence moving clockwise along the 15 nautical mile radius to a point that intersects the 7 nautical mile radius of Fort Lauderdale-Hollywood International Airport, thence moving clockwise along the 7 nautical mile radius to the point of beginning.

Area C. That airspace extending upward from 3,000 feet MSL to and including 4,000 feet MSL within an area bounded on the north by lat. 26°13′53″ N (aligned with the eastern portion of Atlantic Boulevard located in Pompano Beach), on the west by a 25 nautical mile radius of Fort Lauderdale-Hollywood International Airport, on the South by lat. 25°57′48″ N, on the southeast by a 15 nautical mile radius of Miami International Airport, and on the east by US Route 27.

Area D. That airspace extending upward from 3,000 feet MSL to and including 4,000 feet MSL within an area bounded on the north by lat. 26°13′53″ N (aligned with the eastern portion of Atlantic Boulevard located in Pompano Beach), on the east by a 25 nautical mile radius of Fort Lauderdale-Hollywood International Airport, on the south by lat. 26°00′39″ N (the eastern most portion of Hollywood Boulevard located in Hollywood), and on the west by a 20 nautical mile radius of Fort Lauderdale-Hollywood International Airport.

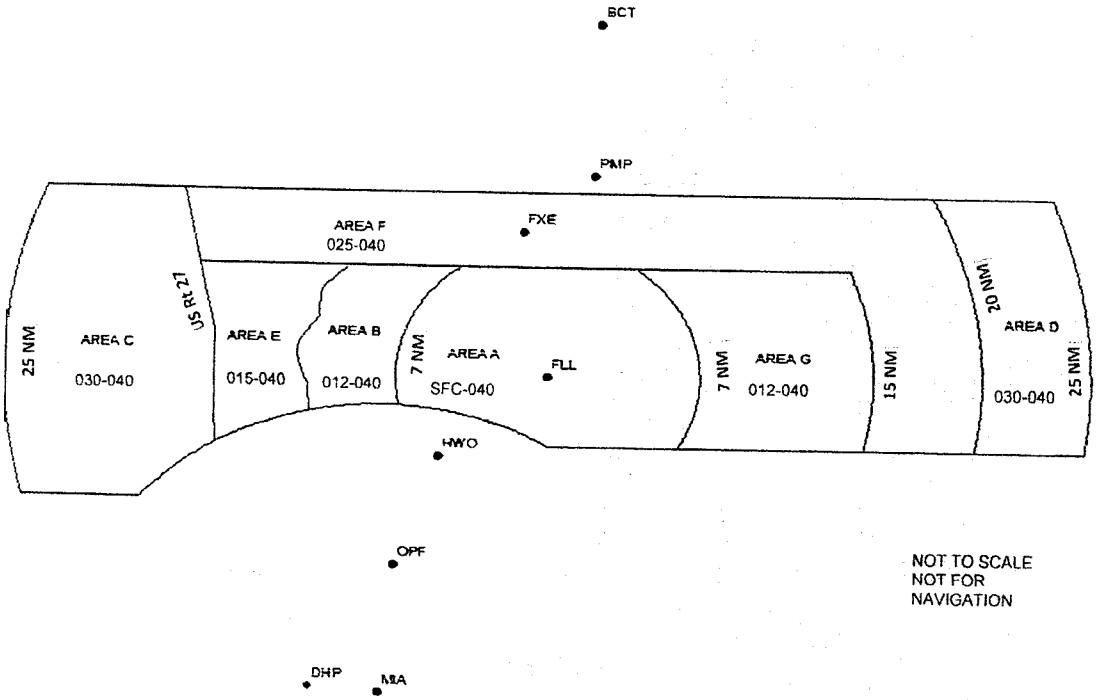
Area E. That airspace extending upward from 1,500 feet MSL to and including 4,000 feet MSL within an area bounded on the north by lat. 26°10′03″ N (the eastern most portion of Oakland Park Boulevard located in Lauderdale Beach), on the east by the north-south portion of Interstate 75 and State Road 869/Sawgrass Expressway, on the south by a 15 nautical mile radius of Miami International Airport, and on the west by US Route 27.

Area F. That airspace extending upward from 2,500 feet MSL to and including 4,000 feet MSL beginning northwest of Fort Lauderdale-Hollywood International Airport at a point that intersects US Route 27 and lat. 26°13′53″ N (aligned with the eastern portion of Atlantic Boulevard located in Pompano Beach), thence moving east along lat. 26°13′53″ N to a point that intersects a 20 nautical mile radius of Fort Lauderdale-Hollywood International Airport, thence moving clockwise along the 20 nautical mile radius to a point that intersects lat. 26°00′39″ N (the eastern most portion of Hollywood Boulevard located in Hollywood), thence moving west to a point that intersects a 15 nautical mile radius of Fort Lauderdale-Hollywood International Airport, thence moving counter-clockwise along the 15 nautical mile radius to a point that intersects lat. 26°10′03″ N (the eastern most portion of Oakland Park Boulevard located in Lauderdale Beach), thence moving west along lat. 26°10′03″ N to a point that intersects US Route 27, thence moving north along US Route 27 to the point of beginning.

Area G. That airspace extending upward from 1,200 feet MSL to and including 4,000 feet MSL beginning northeast of Fort Lauderdale-Hollywood International Airport at a point that intersects a 7 nautical mile radius of Fort Lauderdale-Hollywood International Airport and lat. 26°10′03″ N (the eastern most portion of Oakland Park Boulevard located in Lauderdale Beach), thence moving clockwise along the 7 nautical mile radius to a point that intersects lat. 26°00′39″ N (the eastern most portion of Hollywood Boulevard located in Hollywood), thence moving east along lat. 26°00′39″ N to a point that intersects a 15 nautical mile radius of Fort Lauderdale-Hollywood International Airport, thence moving counter-clockwise along the 15 nautical mile radius to a point that intersects lat. 26°10′03″ N, thence moving west along lat. 26°10′03″ N to the point of beginning.

Paragraph 6003—Subpart E—Class E Airspace Areas Designated as an Extension to a Class C Surface Area.

PROPOSED MODIFICATION OF THE FORT LAUDERDALE-HOLLYWOOD INTERNATIONAL AIRPORT CLASS C AIRSPACE AREA
(Docket Number 18-AWA-3)



Abbreviations

BCT Boca Raton Airport
FLL Fort Lauderdale/Hollywood International Airport
FXE Fort Lauderdale Executive Airport
HWO North Perry Airport
MIA Miami International Airport
OPF Opa Locka Executive
PMP Pompano Beach Airpark
DHP Dolphin VORTAC

ASO FL E3 Fort Lauderdale, FL [Remove]

Issued in Washington, DC, on March 29, 2021.

George Gonzales,

Acting Manager, Rules and Regulations Group.

[FR Doc. 2021–06805 Filed 4–1–21; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 101

[Docket No. RM21–15–000]

Petition for Rulemaking of Center for Biological Diversity

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Petition for rulemaking.

SUMMARY: Take notice that, on March 17, 2021, Center for Biological Diversity, pursuant to Rule 207 of the Federal Energy Regulatory Commission's (Commission) Rules of Practice and Procedure, and section 553 of the Administrative Procedure Act, filed a petition requesting that the Commission amend the Uniform Systems of Accounts requirements for payments to industry associations engaged in lobbying or other influence-related activities, all as more fully explained in the petition.

DATES: Comments due 5 p.m. Eastern time on April 26, 2021.

ADDRESSES: The Commission strongly encourages electronic filing 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.

FOR FURTHER INFORMATION CONTACT: Laura Vallance, Office of Enforcement, Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426, (202) 502–8395, *Laura.Vallance@ferc.gov*.

SUPPLEMENTARY INFORMATION: Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. Anyone filing a motion to intervene or protest must serve a copy of that document on the Petitioner. 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://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. At this time, the Commission has suspended access to 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.

Issued: March 25, 2021.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2021–06624 Filed 4–1–21; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF LABOR

Employment and Training Administration

20 CFR Parts 655 and 656

[Docket No. ETA–2021–0003]

RIN 1205–AC00

Request for Information on Data Sources and Methods for Determining Prevailing Wage Levels for the Temporary and Permanent Employment of Certain Immigrants and Non-Immigrants in the United States

AGENCY: Employment and Training Administration, Department of Labor.

ACTION: Request for information (RFI).

SUMMARY: The Department of Labor (Department) invites interested parties to provide information on the sources of data and methodologies for determining prevailing wage levels covering employment opportunities that United States (U.S.) employers seek to fill with foreign workers on a permanent or temporary basis through certain employment-based immigrant visas or through H–1B, H–1B1, E–3 nonimmigrant visas. The information received in response to this RFI will inform and be considered by the Department as it reviews the final rule entitled *Strengthening Wage Protections for the Temporary and Permanent Employment of Certain Aliens in the United States,* published in the **Federal Register** on January 14, 2021, which may result in the development of a future notice of proposed rulemaking to revise the computation of prevailing wage levels in a manner that more effectively ensures the employment of certain immigrant and nonimmigrant workers does not adversely affect the wages of U.S. workers similarly employed.

DATES: Submit written comments on or before June 1, 2021.

ADDRESSES: You may submit written comments electronically by the following method:

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

Instructions. Include the docket number ETA–2021–0003 in your comments. All comments received will be posted without change to *http://www.regulations.gov*. Please do not include any personally identifiable or confidential business information you do not want publicly disclosed.

FOR FURTHER INFORMATION CONTACT: Brian Pasternak, Administrator, Office of Foreign Labor Certification, Employment and Training Administration, Department of Labor, 200 Constitution Avenue NW, Room N–5311, Washington, DC 20210, telephone: (202) 693–8200 (this is not a toll-free number). Individuals with hearing or speech impairments may access the telephone numbers above via TTY/TDD by calling the toll-free Federal Information Relay Service at 1 (877) 889–5627.

SUPPLEMENTARY INFORMATION:

I. Background

The Immigration and Nationality Act (INA), as amended, assigns certain responsibilities to the Secretary of Labor (Secretary) relating to wages and working conditions of certain categories of immigrant and nonimmigrant foreign workers.[1] The Secretary issues permanent labor certifications for certain employment-based immigrants and certifies labor condition applications (LCAs) for the temporary employment of foreign workers in specialty occupations under the H–1B, H–1B1, and E–3 visa classifications.[2] A specialty occupation is an occupation that requires theoretical and practical application of a body of highly specialized knowledge and the attainment of a bachelor's or higher degree in the specific specialty, or its equivalent, as a minimum for entry into the occupation in the United States.[3]

The Department may issue a permanent labor certification only after a determination that employment of the foreign worker will not adversely affect the wages and working conditions of U.S. workers similarly employed.[4] Employers seeking to employ an immigrant foreign worker on a permanent basis must attest that they will pay at least the prevailing wage and obtain a Prevailing Wage Determination (PWD) for the job opportunity from the Department.[5] Similarly, employers seeking to employ a nonimmigrant foreign worker on a temporary basis under the H–1B, H–1B1, or E–3 programs must attest that they will pay the higher of the actual wage paid to employees with similar experience and qualifications or the prevailing wage for

[1] There are two general categories of U.S. visas: Immigrant and nonimmigrant. Immigrant visas are issued to foreign nationals who intend to live permanently in the U.S. Nonimmigrant visas are for foreign nationals who enter the U.S. on a temporary basis—for tourism, medical treatment, business, temporary work, study, or other reasons.

[2] 8 U.S.C. 1101(a)(15)(E)(iii), (a)(15)(H)(i)(b), (a)(15)(H)(i)(b1).

[3] *See* 8 U.S.C 1184(i).

[4] 8 U.S.C. 1182(a)(5)(A)(i)(II).

[5] 20 CFR 656.10(c)(1), 656.15(b)(1), and 656.40(a).

the occupational classification in the area of intended employment.[6] These employers may obtain a PWD from the Department, but have the option to use other sources, including a compliant employer-provided wage survey, to determine the prevailing wage.[7] A general overview of the labor certification and prevailing wage process, as well as further background on the rulemaking, is available in the Department's Final Rule published in the **Federal Register** on January 14, 2021, and will not be restated herein. 86 FR 3608, 3608–3611.

II. Prevailing Wage Background

A. The Department's Prevailing Wage Determination Methodology

The Department has long relied on BLS's OES data to establish prevailing wage levels. The OES is a comprehensive, statistically valid survey that is currently used for satisfying the Department's purposes in setting wages in most immigrant and nonimmigrant programs. The OES wage survey is among the largest continuous statistical survey programs of the Federal Government. BLS produces the survey materials and selects the nonfarm establishments to be surveyed using the list of establishments maintained by State Workforce Agencies (SWAs) for unemployment insurance purposes. The OES collects data from over one million establishments. Salary levels based on geographic areas are available at the national and State levels and for certain territories in which statistical validity can be ascertained, including the District of Columbia, Guam, Puerto Rico, and the U.S. Virgin Islands. Salary information is also made available at the metropolitan and nonmetropolitan area levels within a State. Wages for the OES survey are straight-time, gross pay, exclusive of premium pay. Base rate, cost-of-living allowances, guaranteed pay, hazardous duty pay, incentive pay including commissions and production bonuses, tips, and on-call pay are included. The Department continues to believe the inclusion of all the features described above make the OES a valuable source for use in many of the Department's foreign labor programs.[8]

The Department incorporated the wage component of the OES survey into its prevailing wage guidance in 1997.[9] At the time, the Department divided OES wage data into two skill levels: a Level I wage for ''beginning level employees'' and a Level II wage for ''fully competent employees.'' Because the OES survey does not provide data about skill differentials within Standard Occupational Classification (SOC) codes, the Department established the entry and experienced skill levels mathematically.[10] Specifically, under a Memorandum of Understanding, BLS computed a Level I wage calculated as the mean of the lowest paid one-third of workers in a given occupation and a Level IV wage calculated as the mean wage of the highest paid upper two-thirds of workers.[11]

In the H–1B Visa Reform Act of 2004, Congress amended the INA to provide that where the Department ''uses, or makes available to employers, a governmental survey to determine the prevailing wage, such survey shall provide at least 4 levels of wages commensurate with experience, education, and the level of supervision.'' [12] Further, the amendment provided that where the ''survey has only 2 levels, 2 intermediate levels may be created by dividing by 3, the difference between the 2 levels offered, adding the quotient thus obtained to the first level and subtracting that quotient from the second level.'' [13]

In order to implement the INA's four-tier prevailing wage provision, the Department published comprehensive Prevailing Wage Determination Policy Guidance for Nonagricultural Immigration Programs (2005 Guidance), which expanded the two-tier OES wage level system to provide four ''skill levels:'' Level I ''entry level,'' Level II ''qualified,'' Level III ''experienced,'' and Level IV ''fully competent.'' [14] The Department applied the formula in the INA to its two existing wage levels to set Levels I through IV.[15] In 2010, the Department centralized the prevailing wage determination process for nonagricultural labor certification programs within OFLC's National Prevailing Wage Center (NPWC).[16] In preparation for this transition, the Department issued new Prevailing Wage Determination Policy Guidance for Nonagricultural Immigration Programs (2009 Guidance).[17] This guidance currently governs OFLC's PWD process for the PERM, H–1B, H–1B1, and E–3 visa programs.

When assigning a prevailing wage using OES data, the NPWC examines the nature of the job offer, the area of intended employment, and the job duties for workers that are similarly employed.[18] In particular, the NPWC uses the SOC taxonomy to classify the employer's job opportunity into an occupation by comparing the employer's job description, title, and requirements to occupational information provided in sources like the Department's Occupational Information Network (O*Net).[19] Once the NPWC identifies the applicable SOC code, it determines the appropriate wage level for the job opportunity by comparing the employer's job description, title, and requirements to those normally required for the occupation, as reported in sources like O*Net. This determination involves a step-by-step process in which each job opportunity begins at Level I (entry level) and may progress to Level II (experienced), Level III (qualified), or Level IV (fully competent) based on the NPWC's comparison of the job opportunity to occupational requirements, including the education, training, experience, skills, knowledge,

[6] 8 U.S.C. 1182(n)(1)(A), (t)(1)(A); 20 CFR 655.731(a).

[7] 20 CFR 655.731(a)(2)(ii)(A)–(C).

[8] *Wage Methodology for the Temporary Non-agricultural Employment H–2B Program,* 76 FR 3452, 3458 (Jan. 19, 2011).

[9] *Prevailing Wage Policy for Nonagricultural Immigration Programs,* General Administration Letter No. 2–98 (GAL 2–98) (Oct. 31, 1997), *available at https://wdr.doleta.gov/directives/corr_doc.cfm?DOCN=942.*

[10] GAL 2–98 at 5.

[11] Intra-Agency Memorandum of Understanding executed by Mr. John R. Beverly, III, Director, U.S. Employment Service, ETA, and Ms. Katharine Newman, Chief, Division of Financial Planning and Management, Office of Administration, BLS (Sept. 30, 1998).

[12] *Consolidated Appropriations Act,* 2005, Public Law 108–447, div. J, tit. IV, § 423; 118 Stat. 2809 (Dec. 8, 2004).

[13] *See* 8 U.S.C. 1182(p)(4).

[14] Employment and Training Administration, Prevailing Wage Determination Policy Guidance, Nonagricultural Immigration Programs, at 7 (May 2005)(*hereinafter* 2005 Guidance), *available at https://www.foreignlaborcert.doleta.gov/pdf/policy_nonag_progs.pdf; see also* 85 FR 63872, 63874–63876 for a discussion of the development of the prevailing wage determination process.

[15] 2005 Guidance at 1.

[16] *See Labor Certification Process and Enforcement for Temporary Employment in Occupations Other Than Agriculture or Registered Nursing in the United States (H–2B Workers), and Other Technical Changes,* 73 FR 78020 (Dec. 19, 2008); *Prevailing Wage Determinations for Use in the H–1B, H–1B1 (Chile/Singapore), H–1C, H–2B, E–3 (Australia), and Permanent Labor Certification Programs; Prevailing Wage Determinations for Use in the Commonwealth of the Northern Mariana Islands,* 74 FR 63796 (Dec. 4, 2009).

[17] Employment and Training Administration Prevailing Wage Determination Policy Guidance, Nonagricultural Immigration Programs (revised Nov. 2009) (*hereinafter* 2009 Guidance), *available at https://www.dol.gov/sites/dolgov/files/ETA/oflc/pdfs/NPWHC_Guidance_Revised_11_2009.pdf.*

[18] *Id.* at 3.

[19] *Id.* at 1–7; *see also* Occupational Information Network, *available at http://online.onetcenter.org.* O*Net provides information on skills, abilities, knowledge, tasks, work activities, and specific vocational preparation levels associated with occupations and stratifies occupations based on shared skill, education, and training indicators.

and tasks required in the occupation.[20] After determining the prevailing wage level, the NPWC issues a PWD to the employer using the OES wage for that level in the occupation and area of intended employment.

B. Procedural History Revising the Computation of Prevailing Wage Levels Based on the OES Survey

On October 8, 2020, the Department's Employment and Training Administration (ETA), published an Interim Final Rule (IFR), 85 FR 63872, revising the methodology the Department uses to determine prevailing wage levels for the H–1B, H–1B1, E–3, and PERM programs. Because the Department determined that the existing wage levels were artificially low and provided an opportunity for employers to hire and retain foreign workers at wages well below what their U.S. counterparts earn, the Department revised wage provisions at 20 CFR 655.731 and 656.40 to adjust the existing wage levels. 85 FR 63872, 63877. Specifically, the Department adjusted the four wage levels, respectively, from approximately the 17th, 34th, 50th, and 67th percentiles to approximately the 45th, 62nd, 78th, and 95th percentiles. 85 FR 63872, 63888–63894.

The Department also determined that it had good cause to issue the IFR without prior notice and opportunity for the public to comment. 85 FR 63872, 63898. The Department published the IFR with an immediate effective date, but provided for the submission of public comments during a prescribed 30-day public comment period that closed on November 9, 2020. During this 30-day period, the Department received 2,340 comments. Several commenters supported the IFR because they thought that it established wages more closely aligned with actual wage levels and would prevent abuse of the program by those employers and their clients seeking to use the H–1B program as a lower cost alternative to hiring U.S. workers. However, most commenters opposing the IFR expressed concern that the revised wage levels did not correspond to wages paid to U.S. workers similarly employed. Four groups of plaintiffs separately challenged the IFR and, in each case, the district court entered an order that set aside or enjoined the IFR on procedural grounds. 86 FR 3608, 3612.

On January 14, 2021, the Department published a final rule entitled *Strengthening Wage Protections for the Temporary and Permanent Employment of Certain Aliens in the United States,* with an effective date of March 15, 2021. 86 FR 3608. With this final rule, the Department adopted a number of modifications to the wage methodology established by the IFR. In particular, the Department adjusted the Level I wage and the Level IV wage downward to the 35th percentile and 90th percentile, respectively. Under the final rule, the Department continues to calculate the two intermediate wage levels in accordance with 8 U.S.C. 1182(p)(4), establishing the prevailing wage for Levels I through IV, respectively, at approximately the 35th percentile, the 53rd percentile, the 72nd percentile, and the 90th percentile. 86 FR 3608, 3653–3654. However, the Department included two sets of transition periods under which these adjustments to the new wage levels will not begin until July 1, 2021. 86 FR 3608, 3642. For most job opportunities, the transition would occur in two steps and conclude on July 1, 2022. For job opportunities that will be filled by workers who are the beneficiary of an approved Immigrant Petition for Alien Worker, or successor form, or are eligible for an extension of their H–1B status under sections 106(a) and (b) of the American Competitiveness in the Twenty-first Century Act of 2000, Public Law 106–313, as amended by the 21st Century Department of Justice Appropriations Authorization Act, Public Law 107–273 (2002), the transition would occur in four steps and conclude on July 1, 2024. 86 FR 3608, 3660.

On March 12, 2021, based on public comments received on the Department's proposal to delay the effective date of the rule for a period of 60 days to begin reviewing questions of fact, law, and policy raised in the final rule, the Department published a final rule delaying the effective date of the final rule until May 14, 2021. 86 FR 13995. The Department acknowledged concerns that were raised by the commenters as well as in pending litigation challenging the Department's IFR, and, subsequently, the final rule published on January 14, 2021. The Department explained that it had already begun its comprehensive review of this rulemaking and may need to take additional action as necessary to complete such a review. *See* 86 FR 13995, 13997. The Department subsequently issued a notice of proposed rulemaking on March 22, 2021, to further delay the effective date of the final rule by eighteen months or until November 14, 2022, along with corresponding proposed delays to the rule's transition dates. 86 FR 15154, 15154. The Department explained that the proposal is intended to provide a sufficient amount of time to thoroughly consider the legal and policy issues raised in the rule, provide time to compute and validate prevailing wage data and take other steps to allow for an orderly implementation, and offer the public, through the issuance of this RFI, an opportunity to provide information on the sources and methods for determining prevailing wage levels, which could be used to inform potential new proposal(s) to amend ETA's regulations governing prevailing wages for PERM, H–1B, H–1B1, and E–3 job opportunities. *See* 86 FR 15154, 15155.

III. Request for Public Comment

Through this RFI, the Department is soliciting public input on the available sources of data and methodologies that can be used in computing different levels of wages based on the OES wage survey, commensurate with experience, education, and level of supervision for a specific occupation and geographic area. Submissions may include, but are not limited to, written narratives that answer the questions presented in this RFI, quantitative or qualitative data analysis, reports or studies, and other estimation techniques and methodologies, whether published or unpublished, relevant to determining wage values or levels within a specific occupational wage distribution and geographic area.

Responses to this RFI are voluntary and may be submitted anonymously. Written narratives providing factual or evidence-based information should also provide citations of sources, and copies of and links to the source material should be provided. If primary sources are used, such as reports, research studies, or other sources of quantitative or qualitative data, the Department is requesting that responders provide details on the data-gathering techniques or methodologies and any supporting technical documentation. For example, input related to occupational wage sources and methods will be most useful if the responder explains, in detail, the type of information provided, the particular value of that information for determining prevailing wage levels, the methodology used to obtain the information, and the contexts in which the information can and cannot be obtained on a consistent basis. The Department also welcomes information that explains why a particular methodology or data source to determine wage values or levels should not be used.

Please do not include any personally identifiable information or any

[20] 2009 Guidance at 6.

information that you do not wish to make public. Proprietary, classified, confidential, or sensitive information should not be included in your response. The information received in response to this RFI will inform and be considered by the Department as it reviews the final rule published in the **Federal Register** on January 14, 2021, 86 FR 3608, which may result in the development of a future notice of proposed rulemaking to revise the computation of prevailing wage levels in a manner that is consistent with the INA and more effectively ensures the employment of certain immigrant and nonimmigrant workers does not adversely affect the wages of U.S. workers similarly employed. Accordingly, the Department invites the public to answer one or more of the following questions in their submissions:

1. What sources of data and methods are available that can be used alone, or in conjunction with other sources and methods, to approximate the wage level within an occupational wage distribution based on the OES wage survey and takes into account education, experience, and level of supervision for U.S. workers similarly employed across industries for specific occupation(s) and geographic area(s)?
2. Besides the OES wage survey, what other sources of data and methods are available that can be used alone, or in conjunction with other sources and methods, to approximate wage levels, by occupation and geographic area, specifically for U.S. workers similarly employed at institutions of higher education, nonprofit entities related to or affiliated with such institutions, nonprofit research organizations and Governmental research organizations?
3. Should the Department continue to set wage levels at the same point within the OES distribution for all occupations and geographic areas or, alternatively, set wage levels at different points within the OES distribution for different groups of occupations and/or geographic areas? If the latter, what sources of data and methods are available that can be used alone, or in conjunction with other sources and methods, to approximate different wage levels for different groups of occupations, taking into account education, experience, and level of supervision for U.S. workers similarly employed across industries and geographic areas?
4. Other than computation of an arithmetic mean or specific percentile within an occupational wage distribution based on the OES wage survey, are there any other statistical approaches or estimation techniques the Department should consider when computing the wage level(s) for occupation(s) and geographic area(s)?

IV. Conclusion

The Department invites interested parties to submit comments, information, data, and supporting materials based on the questions provided in this RFI. The Department has provided the list of questions above as a framework for the scope of this RFI and invites any submission that addresses those questions and provides useful information for the Department's consideration from all interested stakeholders, including members of the public, worker advocacy organizations and labor unions, employers, trade associations, public advocacy organizations, and others, including universities and research institutions, familiar with or interested in the prevailing wage determination methodology used in the PERM, H–1B, H–1B1, and E–3 programs.

Suzan G. LeVine,

Principal Deputy Assistant Secretary for Employment and Training, Labor.

[FR Doc. 2021–06889 Filed 4–1–21; 8:45 am]

BILLING CODE 4510–FP–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

24 CFR Part 5

[Docket No. FR–6124–N–02]

RIN 2501–AD89

Housing and Community Development Act of 1980: Verification of Eligible Status; Withdrawal; Regulatory Review

AGENCY: Office of the General Counsel, Department of Housing and Urban Development (HUD).

ACTION: Withdrawal of proposed rule.

SUMMARY: In accordance with the Presidential directive as expressed in the memorandum of January 20, 2021 from the Assistant to the President and Chief of Staff, entitled ''Regulatory Freeze Pending Review,'' HUD is reviewing all its pending proposed rules to determine which should move forward. HUD has identified a proposed rule, ''Housing and Community Development of Act 1980: Verification of Eligible Status'' that is inconsistent with the Executive order entitled ''Advancing Racial Equity and Support for Underserved Communities Through the Federal Government'' and the Executive order entitled ''Restoring Faith in Our Legal Immigration Systems and Strengthening Integration and Inclusion Efforts for New Americans.'' This document informs the public that HUD has determined not to pursue this proposed rule previously published in the **Federal Register**. HUD will proceed to formally withdraw the rule from HUD's upcoming Spring 2021 Unified Agenda of Regulatory and Deregulatory Actions.

DATES: The proposed rule published at 84 FR 20589, May 10, 2019, is withdrawn as of April 2, 2021.

ADDRESSES: Department of Housing and Urban Development, 451 7th Street SW, Room 10282, Washington, DC 20410.

FOR FURTHER INFORMATION CONTACT: Aaron Santa Anna, Associate General Counsel for Legislation and Regulations, Office of General Counsel, Department of Housing and Urban Development, 451 7th Street SW, Room 10282, Washington, DC 20410; telephone number 202–402–5138 (this is not a toll-free number). Persons with hearing or speech impairments may access this number through TTY by calling the Federal Relay Service at 800–877–8339 (this is a toll-free number).

SUPPLEMENTARY INFORMATION: In a memorandum dated January 20, 2021 and published in the **Federal Register** on January 28, 2021, the Assistant to the President and Chief of Staff, on behalf of the President, directed the heads of Executive Departments and Agencies to review ''rules [1] that have been published in the **Federal Register**, or rules that have been issued in any manner, but have not taken effect . . . for the purpose of reviewing any questions of fact, law, and policy the rules may raise.'' 86 FR 7424. On January 20, 2021, President Biden also issued Executive Order 13985, Advancing Racial Equity and Support for Underserved Communities Through the Federal Government, which provides ''that the Federal Government should pursue a comprehensive approach to advancing equity for all, including people of color and others who have been historically underserved, marginalized, and adversely affected by persistent poverty and inequality.'' 86 FR 7009. Executive Order 13985 specifically defines ''equity'' to mean ''consistent and systematic fair, just, and impartial treatment of all individuals, including individuals who belong to underserved communities that have been denied such treatment, such as Black, Latino, and Indigenous and Native American persons, Asian Americans and Pacific Islanders and other persons of color; members of religious minorities; lesbian, gay, bisexual, transgender, and queer (LGBTQ+) persons; persons with disabilities; persons who live in rural

[1] Rule has the definition set forth in 5 U.S.C. 551(4), to include any substantive action by an agency (normally published in the **Federal Register**) that promulgates or is expected to lead to the promulgation of a final rule or regulation, including notices of inquiry, advance notices of proposed rulemaking, and notices of proposed rulemaking.

areas; and persons otherwise adversely affected by persistent poverty or inequality.''

On February 2, 2021, President Biden issued Executive Order 14012, Restoring Faith in Our Legal Immigration Systems and Strengthening Integration and Inclusion Efforts for New Americans. 86 FR 8277. In part, Executive Order 14012 requires that ''the Federal Government eliminate[] sources of fear and other barriers that prevent immigrants from accessing government services available to them . . . [and] develop welcoming strategies that promote integration, inclusion, and citizenship . . .''

In accordance with the Regulatory Freeze Memorandum, HUD is reviewing its proposed rules and has identified a proposed rule that is inconsistent with Executive Order 13985 and Executive Order 14012: Housing and Community Development of Act 1980: Verification of Eligible Status (84 FR 20589, May 10, 2019). This document informs the public that HUD has determined not to pursue this proposed rule previously published in the **Federal Register**.

HUD's Withdrawal of Proposed Rule

Accordingly, HUD will proceed to formally withdraw the following proposed rule from its Spring 2021 Unified Agenda of Regulatory and Deregulatory Actions: Housing and Community Development Act of 1980: Verification of Eligible Status (84 FR 20589, May 10, 2019) (RIN 2501–AD89).

HUD's Unified Agenda of Regulatory and Deregulatory Actions is available on *Reginfo.gov* and can be accessed at *https://www.reginfo.gov/public/do/eAgendaMain.*

Sasha Samberg-Champion,

Deputy General Counsel, Office of Deputy General Counsel for Enforcement and Fair Housing.

[FR Doc. 2021–06758 Filed 4–1–21; 8:45 am]

BILLING CODE 4210–67–P

POSTAL REGULATORY COMMISSION

39 CFR Part 3030

[Docket No. RM2021–5; Order No. 5854]

Application for Waiver of Workshare Discount

AGENCY: Postal Regulatory Commission.

ACTION: Application for waiver; comment request.

SUMMARY: The Commission is recognizing a Postal Service application for waiver pursuant to Commission regulations as it relates to a workshare discount. This notice informs the public of the filing, invites public comment, and takes other administrative steps.

DATES: *Comments are due:* April 6, 2021.

ADDRESSES: Submit comments electronically via the Commission's Filing Online system at *http://www.prc.gov.* Those who cannot submit comments electronically should contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section by telephone for advice on filing alternatives.

FOR FURTHER INFORMATION CONTACT: David A. Trissell, General Counsel, at 202–789–6820.

SUPPLEMENTARY INFORMATION:

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II. Background
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I. Introduction

On March 26, 2021, the Postal Service filed an application for waiver pursuant to 39 CFR 3030.286 requesting that the Commission waive the applicability of 39 CFR 3030.284 as it relates to the First-Class Mail Letters 5-Digit Automation workshare discount in the next rate adjustment filing.[1]

II. Background

Pursuant to 39 CFR 3030.284, a workshare discount proposed by the Postal Service in any rate adjustment filing that is below avoided costs must either be associated with a new postal service, a change to an existing postal service, or a new workshare initiative; be at least a 20 percent increase from the existing workshare discount, or have a passthrough of at least 85 percent.[2] *See* 39 CFR 3030.284.

If the proposed workshare discount does not comply with the limitations of 39 CFR 3030.284, the Postal Service must file an application for waiver pursuant to 39 CFR 3030.286. *See* 39 CFR 3030.284(d); 39 CFR 3030.286. The Postal Service's waiver application must be supported by a preponderance of the evidence and demonstrate that a waiver from the limitations imposed by 39 CFR 3030.284 should be granted. *See* 39 CFR 3030.286(b). The Postal Service must include the grounds for a waiver, including all relevant supporting analysis; the length of time the waiver will be necessary; for each subsequent rate adjustment filing planned to occur during the length of time for which a waiver is sought, a representation of the proposed minimum amount of the change to the workshare discount; and any other relevant information. *See also* 39 CFR 3030.286(c)(1) through (3) and (8). Grounds for waiver for a below avoided cost workshare discount and the required accompanying information are set forth in 39 CFR 3030.286(c)(5) and (7).[3]

III. Application for Waiver

The Postal Service requests a waiver of 39 CFR 3030.284 for First-Class Mail that is sorted to the 5-Digit level for any rate adjustment proceeding occurring in Fiscal Year (FY) 2021. Application, Supporting Statement at 1. The Postal Service states that ''increasing the workshare discount for 5-Digit presort First-Class Mail by 0.5 cents in a single year could decrease the efficiency of its processing operations.'' *Id.; see* 39 CFR 3030.286(c)(5). It notes that the current discount of 3.0 cents results in a passthrough of 73 percent, which is below the 85 percent threshold. *Id.* To be in compliance with 39 CFR 3030.284, the Postal Service states that it would be required to increase the discount by 0.5 cents to 3.5 cents absent a waiver. *Id.* at 1–2. It maintains that ''[s]uch an increase (which would be nearly 17 [percent] higher than the same discount in FY 2020) represents a dramatic change following years of relative pricing stability.'' *Id.* at 2. The Postal Service states that the required change ''could lead to unpredictable changes among the relative proportions of mail volumes sorted to 5-Digit, Auto AADC, and Mixed AADC.'' *Id.*

For these reasons, the Postal Service seeks to maintain the 5-Digit First-Class Mail Automation workshare discount at 3.0 cents for the next rate adjustment filing. *Id.*

IV. Notice and Comment

The Commission establishes Docket No. RM2021–5 for consideration of matters raised by the Application. More information on the Application may be accessed via the Commission's website at *http://www.prc.gov.* Interested persons may submit comments on the Application no later than April 6, 2021.

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[1] United States Postal Service Application for Waiver Under 39 CFR 3030.286, March 26, 2021 (Application). The Postal Service's Application is accompanied by a Statement in Support of Waiver Application (Supporting Statement).

[2] The relationship between workshare discounts and avoided costs is usually expressed as a percentage called a passthrough, which is calculated by dividing the discount by the avoided cost. Workshare discounts with passthroughs below 100 percent are considered below avoided cost workshare discounts.

[3] Grounds for waiver for a below avoided cost workshare discount relate to the impediment of efficient postal operations and non-compensatory products. *See* 39 CFR 3030.286(c)(5) and (7).

Pursuant to 39 U.S.C. 505, Katalin K. Clendenin is designated as an officer of the Commission (Public Representative) to represent the interests of the general public in this proceeding.

V. Ordering Paragraphs

It is ordered:

1. The Commission establishes Docket No. RM2021–5 for consideration of the matters raised by the United States Postal Service Application for Waiver Under 39 CFR 3030.286, filed March 26, 2021.

2. Comments by interested persons in this proceeding are due no later than April 6, 2021.

3. Pursuant to 39 U.S.C. 505, the Commission appoints Katalin K. Clendenin to serve as an officer of the Commission (Public Representative) to represent the interests of the general public in this docket.

4. The Secretary shall arrange for publication of this order in the **Federal Register**.

By the Commission.

Jennie L. Jbara,

Alternate Certifying Official.

[FR Doc. 2021–06839 Filed 4–1–21; 8:45 am]

BILLING CODE 7710–FW–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MB Docket No. 21–72; RM–11888; DA 21–271; FR ID 18713]

Television Broadcasting Services; Green Bay, Wisconsin; Correction

AGENCY: Federal Communications Commission.

ACTION: Proposed rule; correction.

SUMMARY: The Federal Communications Commission published a document in the **Federal Register** of March 25, 2021, concerning a petition for rulemaking filed by WLUK Licensee, LLC (Licensee) requesting the substitution of channel 18 for channel 12 at Green Bay, Wisconsin in the DTV Table of Allotments. The document contained the incorrect call sign in the summary section.

DATES: April 2, 2021.

FOR FURTHER INFORMATION CONTACT: Joyce Bernstein, *Joyce.Bernstein@fcc.gov,* Media Bureau, (202) 418–1647.

SUPPLEMENTARY INFORMATION:

Correction

In FR Doc. 2021–06155, in the **Federal Register** of March 25, 2021, on page 15853, in the third column, correct the **SUMMARY** caption to read:

SUMMARY: The Video Division has before it a petition for rulemaking filed November 27, 2020 (Petition) by WLUK Licensee, LLC (Licensee), the licensee of WLUK–TV (FOX), channel 12, Green Bay, Wisconsin. The Licensee requests the substitution of channel 18 for channel 12 at Green Bay, Wisconsin the digital television (DTV) Table of Allotments.

Dated: March 25, 2021.

Thomas Horan,

Chief of Staff, Media Bureau.

[FR Doc. 2021–06854 Filed 4–1–21; 8:45 am]

BILLING CODE 6712–01–P

Notices

Federal Register
Vol. 86, No. 62
Friday, April 2, 2021

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

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[Doc. No. AMS–NOP–21–0023; NOP–21–03]

National Organic Standards Board (NOSB): Call for Nominations

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Notice: Call for Nominations.

SUMMARY: The National Organic Standards Board (NOSB) was established to assist in the development of standards for substances to be used in organic production and to advise the Secretary on the implementation of the Organic Foods Production Act of 1990 (OFPA). Through this Notice, the U.S. Department of Agriculture (USDA) is announcing its call for nominations to fill four vacancies. Descriptions of the four positions are listed below under supplementary information. Appointees will serve a 5-year term beginning January 24, 2022, and ending January 23, 2027. Additionally, USDA seeks nominations for a pool of candidates that the Secretary of Agriculture (Secretary) can draw upon as replacement appointees if unexpected vacancies occur.

DATES: Written nominations must be received by mail or postmarked on or before June 1, 2021.

ADDRESSES: Applications can be sent via email to Michelle Arsenault at *Michelle.Arsenault@usda.gov,* or mailed to: USDA–AMS–NOP, 1400 Independence Avenue SW, Room 2642–S, Ag Stop 0268, Washington, DC 20250–0268. Electronic submittals are preferred.

FOR FURTHER INFORMATION CONTACT: Michelle Arsenault, (202) 997–0115; email: *Michelle.Arsenault@usda.gov.*

SUPPLEMENTARY INFORMATION: OFPA, as amended (7 U.S.C. 6501–6524), requires the Secretary to establish the NOSB in accordance with the Federal Advisory Committee Act, as amended. NOSB is composed of 15 members: Four individuals who own or operate an organic farming operation, or employees of such individuals; two individuals who own or operate an organic handling operation, or employees of such individuals; one individual who owns or operates a retail establishment with significant trade in organic products, or employees of such individuals; three individuals with expertise in areas of environmental protection and resource conservation; three individuals who represent public interest or consumer interest groups; one individual with expertise in the fields of toxicology, ecology, or biochemistry; and one individual who is a certifying agent.

Through this Notice, USDA seeks to fill the following four positions:

- One individual who owns or operates an organic farming operation or an employee of such individual.
- One individual with expertise in areas of environmental protection and resource conservation.
- One individual who represents public interest or consumer interest groups.
- One individual with expertise in the fields of toxicology, ecology, or biochemistry.

Per OFPA, individuals seeking appointment to NOSB must meet the definition of the position that they seek as identified under 7 U.S.C. 6518, as well as satisfy the selection criteria for an NOSB member. Selection criteria include the following: An understanding of organic principles and practical experience in the organic community; demonstrated experience and interest in organic production and organic certification; demonstrated experience with respect to agricultural products produced and handled on certified organic farms; a commitment to the integrity of the organic food and fiber industry; demonstrated experience in the development of public policy such as participation on public or private advisory boards, boards of directors, or other comparable organizations; support of consumer and public interest organizations; participation in standards development or involvement in educational outreach activities; the ability to evaluate technical information and to fully participate in NOSB deliberation and recommendations; the willingness to commit the time and energy necessary to assume NOSB duties; and other such factors as may be appropriate for specific positions.

All appointees will serve a 5-year term beginning January 24, 2022, and ending January 23, 2027.

To nominate yourself or someone else, please submit the following: a resume (required); Form AD–755 (required), which can be accessed at: *https://www.ocio.usda.gov/document/ad-755* a cover letter (optional); and a list of endorsements or letters of recommendation (optional). Resumes should be no longer than five (5) pages and should include the following information: The position for which you are applying; current and past organization affiliations; areas of expertise; education; career positions held; and any other notable positions held. Previous applicants who wish to be considered must reapply.

If USDA receives a request under the Freedom of Information Act (5 U.S.C. 552) for records relating to NOSB nominations, application materials may be released to the requester. Prior to the release of the information, personally identifiable information protected by the Privacy Act (5 U.S.C. 552) will be redacted.

The Agricultural Marketing Service (AMS) encourages submissions from traditionally underrepresented individuals, organizations, and businesses to reflect the diversity of this industry. AMS encourages submissions from qualified applicants, regardless of race, color, age, sex, sexual orientation, gender identity, national origin, religion, disability status, protected veteran status, or any other characteristic protected by law.

The information collection requirements concerning the nomination process have been previously cleared by the Office of Management and Budget (OMB) under OMB Control No. 0505–0001.

Date: March 25, 2021.

Cikena Reid,

USDA Committee Management Officer.

[FR Doc. 2021–06761 Filed 4–1–21; 8:45 am]

BILLING CODE P

DEPARTMENT OF AGRICULTURE

Office of the Secretary

Adjustment to Fiscal Year 2021 Specialty Sugar Tariff-Rate Quota Tranche Opening Date

AGENCY: Office of the Secretary, USDA.

ACTION: Notice.

SUMMARY: The Office of the Secretary of the Department of Agriculture (the Secretary) is providing notice of a change in the opening date for the fifth tranche of fiscal year (FY) 2021 (October 1, 2020–September 30, 2021) specialty sugar tariff-rate quota (TRQ). The fifth tranche, scheduled to open on July 15, will now open on April 5, 2021.

DATES: This notice is applicable on April 2, 2021.

FOR FURTHER INFORMATION CONTACT: Souleymane Diaby, Multilateral Affairs Division, Trade Policy and Geographic Affairs, Foreign Agricultural Service, U.S. Department of Agriculture, Stop 1070, 1400 Independence Avenue SW, Washington, DC 20250–1070; by telephone (202) 720–2916; or by email *Souleymane.Diaby@usda.gov.*

SUPPLEMENTARY INFORMATION: Pursuant to Additional U.S. Note 5 to Chapter 17 of the Harmonized Tariff Schedule of the United States (HTSUS), the United States maintains TRQs for imports of raw cane and refined sugar. On July 9, 2020, the Secretary of Agriculture established the FY 2021 specialty sugar TRQ at 141,656 MTRV, to be administered in the following way. The first tranche, totaling 1,656 MTRV, was to open October 1, 2020. All specialty sugars were eligible for entry under this tranche. The second tranche of 40,000 MTRV was to open on October 8, 2020. The third tranche of 40,000 MTRV was to open on January 21, 2021. The fourth tranche of 30,000 MTRV was to open on April 15, 2021. The fifth tranche of 30,000 MTRV was to open on July 15, 2021. The second, third, fourth, and fifth tranches were reserved for organic sugar and other specialty sugars not currently produced commercially in the United States or reasonably available from domestic sources. *See* 85 FR 41226.

The Secretary is changing the opening date of the fifth tranche of 30,000 MTRV from July 15, 2021, to April 5, 2021. This action is needed to accommodate current demand for organic sugar and other specialty sugars, which exceeds current supplies.

Jason Hafemeister,

Acting Deputy Under Secretary, Trade and Foreign Agricultural Affairs.

[FR Doc. 2021–06809 Filed 4–1–21; 8:45 am]

BILLING CODE 3410–10–P

DEPARTMENT OF AGRICULTURE

Submission for OMB Review; Comments Requested; Correction

March 29, 2021.

The Department of Agriculture will submit the following information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13 on or after the date of publication of this notice. Comments are requested regarding: Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; ways to enhance the quality, utility and clarity of the information to be collected; and ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology Comments regarding these information collections are best assured of having their full effect if received by May 3, 2021. Written comments and recommendations for the proposed information collection should be submitted within 30 days of the publication of this notice on the following website *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

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

Agricultural Marketing Service

Title: Reporting and Recordkeeping Requirements (United States Grain Standards Act and Agricultural Marketing Act of 1946).

OMB Control Number: 0580–0309.

Summary of Collection: The agency published a 30 Day FRN on 29 March 2021 for the Reporting and Recordkeeping Requirements (United States Grain Standards Act and Agricultural Marketing Act of 1946). The OMB control number was incorrect 0580–0309 and should be 0581–0309.

Levi S. Harrell,

Departmental Information Collection Clearance Officer.

[FR Doc. 2021–06763 Filed 4–1–21; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Commodity Credit Corporation

Farm Service Agency

[Docket ID: FSA–2021–0004]

Information Collection Request; Representation for CCC and FSA Loans and Authorization To File a Financing Statement

AGENCY: Commodity Credit Corporation and Farm Service Agency, USDA.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, the Commodity Credit Corporation (CCC) and the Farm Service Agency (FSA) are requesting comments from all interested individuals and organizations on an extension and revision of a currently approved information collection that supports CCC and FSA loan programs. The information collection is necessary to gather data regarding the applicant which is required on a financing statement, and to obtain the applicant's permission to file a financing statement prior to the execution of a security agreement.

DATES: We will consider comments we receive by June 1, 2021.

ADDRESSES: We invite you to submit comments on this notice. In your comment, include date, volume, and page number of this issue of the **Federal Register**. You may submit comments by any of the following methods:

- *Federal eRulemaking Portal:* Go to: *www.regulations.gov* and search for Docket ID FSA–2021–0004. Follow the online instructions for submitting comments.
- *Mail, Hand-Delivery, or Courier:* Angela Payton, Agricultural Program Specialist, USDA, FSA, Stop 0512, 1400

Independence Avenue SW, Washington, DC 20250.

You may also send comments to the Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503. Comments will be available for inspection online at *http://www.regulations.gov.*

Copies of the information collection may be requested by contacting Angela Payton at the phone number below or the above address.

FOR FURTHER INFORMATION CONTACT: For specific questions related to collection activities, contact Angela Payton at (202) 720–0482 (voice); or, by email at: *Angela.Payton@usda.gov.* Persons with disabilities who require alternative means for communication should contact the USDA Target Center at (202) 720–2600 (voice).

SUPPLEMENTARY INFORMATION:

Title: Representations for Commodity Credit Corporation or Farm Service Agency Loans and Authorization to File a Financing Statement and Related Documents.

OMB Control Number: 0560–0215.

Expiration Date of Approval: July 31, 2021.

Type of Request: Extension with a revision.

Abstract: Form CCC–10, ''Representations for Commodity Credit Corporation or Farm Service Agency Loans and Authorization to File a Financing Statement and Related Documents'' is necessary to:

(a) Gather or verify basic data, provided by a CCC or FSA loan applicant, that is required on a financing statement filed by CCC or FSA to perfect a security interest in collateral used to secure a loan; and

(b) Obtain applicant permission to file a financing statement prior to the execution of a security agreement.

FSA's Farm Loan Programs (FLP) uses the CCC–10 when a nonapplicant third party pledges the full value of chattel security to FSA as adequate security required for an FLP loan.

FSA increased the number of respondents by 1,766 and the burden hours increased by 147. The applicants who are applying for farm loans to pledge security for a loan have increased since the last request. CCC's Marketing Assistance Loan and Farm Storage Facility Loan programs are exempted from Paperwork Reduction Act.

For the following estimated total annual burden on respondents, the formula used to calculate the total burden hours is the estimated average time per response multiplied by the estimated total annual of responses.

Estimated Annual Burden: The public reporting burden for this information collection is estimated to average 5 minutes per response (0.08 of an hours).

Respondents: Individual producers and farming entities.

Estimated Number of Respondents: 3,822.

Estimated Number of Responses per Respondent: 1.

Estimated Total Annual Response: 812.

Estimated Average Time per Response: 0.08 (average 5 minutes).

Estimated Total Annual Burden on Respondents: 385.

We are requesting comments on all aspects of this information collection to help us to:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden of the collection of information, including the validity of the methodology and assumptions used;

(3) Evaluate the quality, ability and clarity of the information technology; and

(4) Minimize the burden of the information collection on those who respond through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information.

All responses to this notice, including names and addresses when provided, will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

Steven Peterson,

Acting Administrator, Farm Service Agency.

[FR Doc. 2021–06825 Filed 4–1–21; 8:45 am]

BILLING CODE 3410–05–P

DEPARTMENT OF AGRICULTURE

Farm Service Agency

[Docket ID FSA–2020–0006]

Information Collection Request; Coronavirus Food Assistance Program (CFAP 2.0)

AGENCY: Farm Service Agency, USDA.

ACTION: Notice; request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, FSA is requesting comments from interested individuals and organizations on an extension of a currently approved information collection request associated with the Coronavirus Food Assistance Program (CFAP 2.0).

DATES: We will consider comments that we receive by June 1, 2021.

ADDRESSES: We invite you to submit comments on this notice. In your comment, include the volume, date, and page number of this issue of the **Federal Register**. You may submit comments by any of the following methods:

- *Federal eRulemaking Portal:* Go to: *www.regulations.gov* and search for Docket ID FSA–2020–0006. Follow the online instructions for submitting comments.
- *Mail, Hand-Delivery, or Courier:* Director, SND, FSA, U.S. Department of Agriculture, 1400 Independence Avenue SW, Stop 0522, Washington, DC 20250–0522.

You may also send comments to the Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503. Comments will be available for inspection online at *http://www.regulations.gov.* Copies of the information collection may be requested by contacting Brittany Ramsburg at the above address.

FOR FURTHER INFORMATION CONTACT: For specific questions related to collection activities, contact Ms. Brittany Ramsburg at (202) 260–9303 (voice); or, by email at: *BrittanyRamsburg@usda.gov.* Persons with disabilities who require alternative means for communication should contact the USDA Target Center at (202) 720–2600 (voice).

SUPPLEMENTARY INFORMATION:

Title: CPAP 2.0.

OMB Control Number: 0560–0297.

Type of Request: Extension.

Abstract: This information collection is required to support CFAP 2.0 information collection activities to provide payments to eligible producers who, with respect to their agricultural commodities, have been impacted by the effects of the COVID–19 outbreak. The information collection is necessary to evaluate the application and other required paperwork for determining the producer's eligibility and assist in the producer's payment calculations. Producers must submit a completed CFAP 2 application and additional documentation for eligibility, such as certifications of compliance with adjusted gross income provisions and conservation compliance activities; those additional documents and forms must be submitted no later than 60 days from the date a producer signs the application.

FSA requested another emergency extension in order to continue the information collection request. After the comment period ended in the notice, the information collection request will be submitted under the regular process.

For the following estimated total annual burden on respondents, the formula used to calculate the total burden hour is the estimated average time per response multiplied by the estimated total annual responses.

Public reporting burden for this information collection is estimated to include the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed and completing and reviewing the collections of information.

Type of Respondents: Producers or farmers.

Estimated Annual Number of Respondents: 800,000.

Estimated Number of Responses per Respondent: 1.41.

Estimated Total Annual Responses: 1,133,000.

Estimated Average Time per Response: 0.76 hours.

Estimated Total Annual Burden on Respondents: 860,770 hours.

FSA is requesting comments on all aspects of this information collection to help us to:

(1) Evaluate whether the collection of information is necessary for the proper performance of the functions of the FSA, including whether the information will have practical utility;

(2) Evaluate the accuracy of the FSA's estimate of burden 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.

All comments received in response to this document, including names and addresses when provided, will be a matter of public record. Comments will be summarized and included in the submission for Office of Management and Budget approval.

Steven Peterson,

Acting Administrator, Farm Service Agency.

[FR Doc. 2021–06830 Filed 4–1–21; 8:45 am]

BILLING CODE 3410–05–P

DEPARTMENT OF AGRICULTURE

Rural Business-Cooperative Service

[Docket No. RBS–21–BUSINESS–0005]

Notice of Request for Extension of a Currently Approved Information Collection

AGENCY: Rural Business—Cooperative Service, USDA.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the intention of the above-named agency to request Office of Management and Budget's (OMB) approval for an extension of a currently approved information collection in support of Business and Industrial Loan Programs.

DATES: Comments on this notice must be received by June 1, 2021.

FOR FURTHER INFORMATION CONTACT: Arlette Mussington, Rural Development Innovation Center—Regulations Management Division, USDA, 1400 Independence Avenue SW, Room 4227, South Building, Washington, DC 20250–1522. Telephone: (202) 720–2825. Email *arlette.mussington@usda.gov.*

SUPPLEMENTARY INFORMATION: The Office of Management and Budget's (OMB) regulation (5 CFR 1320) implementing provisions of the Paperwork Reduction Act of 1995 (Pub. L. 104–13) requires that interested members of the public and affected agencies have an opportunity to comment on information collection and recordkeeping activities (see 5 CFR 1320.8(d)). This notice identifies an information collection that RBS is submitting to OMB for extension.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility; (b) The accuracy of the Agency's estimate of the burden of the proposed collection of information including the validity of the methodology and assumptions used; (c) Ways to enhance the quality, utility and clarity of the information to be collected; and (d) Ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Comments may be sent by the Federal eRulemaking Portal: Go to *http://www.regulations.gov* and, in the lower ''Search Regulations and Federal Actions'' box, select ''RBS'' from the agency drop-down menu, then click on ''Submit.'' In the Docket ID column, select RBS–21–BUSINESS–0005 to submit or view public comments and to view supporting and related materials available electronically. Information on using *Regulations.gov*, including instructions for accessing documents, submitting comments, and viewing the docket after the close of the comment period, is available through the site's ''User Tips'' link.

Title: Business and Industry Loan Program.

OMB Number: OMB No. 0570–0014.

Expiration Date of Approval: November 30, 2021.

Type of Request: Extension of a currently approved information collection.

Abstract: The Business and Industry (B&I) program was legislated in 1972, under Section 310B of the Consolidated Farm and Rural Development Act, as amended. The purpose of the program is to improve, develop, or finance businesses, industries, and employment and improve the economic and environmental climate in rural communities, including pollution abatement and control. This purpose is achieved through bolstering the existing private credit structure by making direct loans, thereby providing lasting community benefits. The B&I program is administered by the Agency through Rural Development State and sub-State Offices serving the State.

The collected information is submitted to the B&I loan official by loan applicants and commercial lenders for use in making program eligibility, financial feasibility determinations and loan security determinations as required by the Con Act.

The Agency is requesting an extension due to the number of applications submitted by borrowers remained unchanged over the past 3 years since the collection was last approved.

Estimate of Burden: Public reporting for this collection of information is estimated to average 3 hours per response.

Respondents: Individuals, rural businesses, for profit businesses, nonprofit businesses, Indian tribes, public bodies, cooperatives.

Estimated Number of Respondents: 16.

Estimated Number of Responses per Respondent: 4.31.

Estimated Number of Responses: 69.

Estimated Total Annual Burden on Respondents: 228 hours.

Copies of this information collection can be obtained from Arlette Mussington, Innovation Center—Regulations Management Division, at (202) 720–2825. Email: *arlette.mussington@usda.gov.*

All responses to this notice will be summarized and included in the request for OMB approval. All comments will become a matter of public record.

Mark Brodziski,

Acting Administrator, Rural Business-Cooperative Service.

[FR Doc. 2021–06807 Filed 4–1–21; 8:45 am]

BILLING CODE 3410–XY–P

COMMISSION ON CIVIL RIGHTS

Notice of Public Meeting of the Michigan Advisory Committee to the U.S. Commission on Civil Rights

AGENCY: U.S. Commission on Civil Rights.

ACTION: Announcement of meeting.

SUMMARY: Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights (Commission) and the Federal Advisory Committee Act that the Michigan Advisory Committee (Committee) will hold web-based meetings on Wednesday April 28, 2021, Wednesday, May 5, 2021 and Friday, May 14, 2021, for the purpose of discussing the impact of the COVID–19 pandemic on voting rights in the state.

DATES:

Public Access Information

- Wednesday, April 28, 2021 at 2:00 p.m. Eastern Time
  - Register online (audio/visual): *https://bit.ly/38J495F*
  - Telephone (audio only): Dial 800–360–9505; Access code: 199 883 5939
- Wednesday May 5, 2021 at 3:00 p.m. Eastern Time
  - Register online (audio/visual): *https://bit.ly/3lkTS4z*
  - Telephone (audio only) Dial: 800–360–9505; Access code: 199 562 1419
- Friday, May 14, 2021 at 2:00 p.m. Eastern Time
  - Register online (audio/visual): *https://bit.ly/3cC0U16*
  - Telephone (audio only) Dial: 800–360–9505; Access code: 199 883 5939

FOR FURTHER INFORMATION CONTACT: Melissa Wojnaroski, DFO, at *mwojnaroski@usccr.gov* or 202–618–4158.

SUPPLEMENTARY INFORMATION: Members of the public can listen to the discussion. This meeting is available to the public through the above listed toll-free number or online through the above registration link. An open comment period will be provided to allow members of the public to make a statement as time allows. Callers can expect to incur regular charges for calls they initiate over wireless lines, according to their wireless plan. The Commission will not refund any incurred charges. Callers will incur no charge for calls they initiate over land-line connections to the toll-free telephone number. Persons who are deaf or hard of hearing may also follow the proceedings by first calling the Federal Relay Service at 1–800–877–8339 and providing the Service with the conference call number and conference ID number.

Members of the public are also entitled to submit written comments; the comments must be received in the regional office within 30 days following the meeting. Written comments may be emailed to Melissa Wojnaroski at *mwojnaroski@usccr.gov.* Persons who desire additional information may contact the Regional Programs Unit Office at 202–618–4158.

Records generated from this meeting may be inspected and reproduced at the Regional Programs Unit Office, as they become available, both before and after the meeting. Records of the meeting will be available via *https://www.facadatabase.gov/FACA/FACAPublicViewCommitteeDetails?id=a10t0000001gzjPAAQ* under the Commission on Civil Rights, Michigan Advisory Committee link. Persons interested in the work of this Committee are also directed to the Commission's website, *http://www.usccr.gov,* or may contact the Regional Programs Unit office at the above email or phone number.

Agenda

Welcome and Roll Call

Discussion: COVID–19 & Voting Rights in Michigan

Public Comment

Adjournment

Dated: March 29, 2021.

David Mussatt,

Supervisory Chief, Regional Programs Unit.

[FR Doc. 2021–06792 Filed 4–1–21; 8:45 am]

BILLING CODE 6335–01–P

DEPARTMENT OF COMMERCE

Census Bureau

Agency Information Collection Activities; Submission to the Office of Management and Budget (OMB) for Review and Approval; Comment Request; Small Business Pulse Survey

The Department of Commerce will submit the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995, on or after the date of publication of this notice. We invite the general public and other Federal agencies to comment on proposed, and continuing information collections, which helps us assess the impact of our information collection requirements and minimize the public's reporting burden. Public comments were previously requested via the **Federal Register** on May 19, 2020 during a 60-day comment period. This notice allows for an additional 30 days for public comments.

Agency: U.S. Census Bureau.

Title: Small Business Pulse Survey.

OMB Control Number: 0607–1014.

Form Number(s): None.

Type of Request: Regular Submission, Request for a Revision of a Currently Approved Collection.

Number of Respondents: 810,000 (22,500 responses per week for up to a maximum of 36 weeks of collection).

Average Hours per Response: 6 minutes.

Burden Hours: 81,000.

Needs and Uses: Phase 1 of the Small Business Pulse Survey was launched on April 26, 2020 as an effort to produce and disseminate high-frequency, geographic- and industry-detailed experimental data about the economic conditions of small businesses as they experience the coronavirus pandemic. It is a rapid response endeavor that leverages the resources of the federal statistical system to address emergent data needs. Given the rapidly changing dynamics of this situation for American small businesses, the Small Business Pulse Survey has been successful in meeting an acute need for information on changes in revenues, business closings, employment and hours worked, disruptions to supply chains, and expectations for future operations. In addition, the Small Business Pulse Survey provided important estimates of federal program uptake to key survey stakeholders.

Due to the ongoing nature of the pandemic, the Census Bureau subsequently conducted Phases 2, 3 and

4 of the Small Business Pulse Survey. The Office of Management and Budget authorized clearance of Phase 4 of the Small Business Pulse Survey on February 16, 2021. The Census Bureau now seeks approval to conduct Phase 5 of the Small Business Pulse Survey which will occur over 9 weeks starting May 17, 2021.

The continuation of the Small Business Pulse Survey is responsive to stakeholder requests for high frequency data that measure the effect of changing business conditions during the Coronavirus pandemic on small businesses. While the ongoing monthly and quarterly economic indicator programs provide estimates of dollar volume outputs for employer businesses of all size, the Small Business Pulse Survey captures the effects of the pandemic on operations and finances of small, single location employer businesses. As the pandemic continues, the Census Bureau is best poised to collect this information from a large and diverse sample of small businesses.

It is hard to predict when a shock will result in economic activity changing at a weekly, bi-weekly, or monthly frequency. Early in the pandemic, federal, state, and local policies were moving quickly so it made sense to have a weekly collection. The problem is that while we are in the moment, we cannot accurately forecast the likelihood of policy action. In addition, we are not able to forecast a change in the underlying cause of policy actions: The effect of the Coronavirus pandemic on the economy. We cannot predict changes in the severity of the pandemic (*e.g.,* will it worsen in flu season?) nor future developments that will alleviate the pandemic (*e.g.,* vaccines or treatments). In a period of such high uncertainty, the impossibility of forecasting these inflection points underscores the benefits of having a weekly survey. For these reasons, the Census Bureau will proceed with a weekly collection.

Phase 5 of the Small Business Pulse Survey proposes to capture information on concepts such as business closings, changes in revenue, changes in employment and hours, vaccine requirements, disruptions to supply chain, operating capacity factors, and expectations for future operations. These economic data will be used to understand how changes due to the response to the Coronavirus pandemic have and continue to affect American businesses and the U.S. economy. Content for Phase 5 will remain the same as the previous phase, with two minor additions of response categories (''Restaurant Revitalization Fund'' and ''Shuttered Venue Operators Grants'') will be added as options in questions 15 and 16.

All results from the Small Business Pulse Survey will continue to be disseminated as U.S. Census Bureau Experimental Data Products (*https://portal.census.gov/pulse/data/*). This and additional information on the Small Business Pulse Survey are available to the public on census.gov.

Affected Public: Business or other for-profit organizations.

Frequency: Small business will be selected once to participate in a 6-minute survey.

Respondent's Obligation: Voluntary.

Legal Authority: Title 13 U.S.C., Sections 131 and 182.

This information collection request may be viewed at *www.reginfo.gov.* Follow the instructions to view the Department of Commerce collections currently under review by OMB.

Written comments and recommendations for the proposed information collection should be submitted within 30 days of the publication of this notice on the following website *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function and entering either the title of the collection or the OMB Control Number 0607–1014.

Sheleen Dumas,

Department PRA Clearance Officer, Office of the Chief Information Officer, Commerce Department.

[FR Doc. 2021–06803 Filed 4–1–21; 8:45 am]

BILLING CODE 3510–07–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–469–823]

Utility Scale Wind Towers From Spain: Preliminary Affirmative Determination of Sales at Less Than Fair Value

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

SUMMARY: The Department of Commerce (Commerce) preliminarily determines that utility scale wind towers (wind towers) from Spain are being, or are likely to be, sold in the United States at less than fair value (LTFV). The period of investigation (POI) is July 1, 2019, through June 30, 2020. Interested parties are invited to comment on this preliminary determination.

DATES: Applicable April 2, 2021.

FOR FURTHER INFORMATION CONTACT: Benito Ballesteros, AD/CVD Operations, Office V, Enforcement and Compliance, International Trade Administration, Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–7425.

SUPPLEMENTARY INFORMATION:

Background

This preliminary determination is made in accordance with section 733(b) of the Tariff Act of 1930, as amended (the Act). Commerce published the notice of initiation of this investigation on November 16, 2020.[1] For a complete description of the events that followed the initiation of this investigation, *see* the Preliminary Decision Memorandum.[2] A list of topics included in the Preliminary Decision Memorandum is included as Appendix II to this notice. The Preliminary Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at *http://access.trade.gov.* In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly at *http://enforcement.trade.gov/frn/.*

Scope of the Investigation

The products covered by this investigation are utility scale wind towers from Spain. For a complete description of the scope of this investigation, *see* Appendix I to this notice.

Scope Comments

In accordance with the *Preamble* to Commerce's regulations,[3] we set aside a period of time in the *Initiation Notice* for parties to raise issues regarding product coverage (*i.e.,* scope).[4] We did not receive comments concerning the scope of the investigation of wind towers as it appeared in the *Initiation Notice.*

Methodology

Commerce is conducting this investigation in accordance with section

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[1] *See Utility Scale Wind Towers from India, Malaysia, and Spain: Initiation of Less-Than-Fair-Value Investigations,* 85 FR 73023 (November 16, 2020) (*Initiation Notice*).

[2] *See* Memorandum, ''Decision Memorandum for the Preliminary Determination in the Less-Than-Fair-Value Investigation of Utility Scale Wind Towers from Spain,'' dated concurrently with, and hereby adopted by, this notice (Preliminary Decision Memorandum).

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

[4] *See Initiation Notice,* 85 FR at 73024.

731 of the Act. Pursuant to section 776(a) of the Act, Commerce has preliminarily relied upon facts otherwise available to assign a dumping margin to Vestas Eolica S.A.U. (Vestas Eolica), in this investigation because Vestas Eolica did not submit a response to Commerce's antidumping duty questionnaire. Commerce has also preliminarily relied upon facts otherwise available to assign a dumping margin to the companies which did not provide responses to the quantity and value (Q&V) questionnaires during the respondent selection process.[5] Further, pursuant to section 776(b) of the Act, Commerce is preliminarily determining that Vestas Eolica and the companies which did not provide responses to the Q&V questionnaires failed to cooperate by not acting to the best of their individual abilities to comply with requests for information. Commerce is, therefore, using an adverse inference when selecting from among the facts otherwise available (*i.e.,* applying adverse facts available (AFA)) to these companies, in accordance with section 776(b) of Act. For a full description of the methodology underlying our preliminary determination, *see* the Preliminary Decision Memorandum.

All-Others Rate

Sections 733(d)(1)(ii) and 735(c)(5)(A) of the Act provide that, in the preliminary determination, Commerce shall determine an estimated all-others rate for all exporters and producers not individually examined. This rate shall be an amount equal to the weighted average of the estimated weighted-average dumping margins established for exporters and producers individually investigated, excluding any zero and *de minimis* margins, and any margins determined entirely under section 776 of the Act.

Pursuant to section 735(c)(5)(B) of the Act, if the estimated weighted-average dumping margins established for all exporters and producers individually examined are zero, *de minimis,* or determined based entirely on facts otherwise available, Commerce may use any reasonable method to establish the estimated weighted-average dumping margin for all other producers or exporters. Commerce has preliminarily determined the estimated weighted-average dumping margin for the individually-examined respondent under section 776 of the Act. In cases where no weighted-average dumping margins other than those determined entirely under section 776 of the Act have been established for individually-examined entities, in accordance with section 735(c)(5)(B) of the Act, Commerce may use any reasonable method to establish the estimated all-others rate for exporters and producers not individually investigated.

In the Petition, the Wind Tower Trade Coalition (the petitioner)[6] provided only one dumping margin, which was based on a price-to-constructed-value comparison.[7] Therefore, in the absence of another weighted-average dumping margin on the record of this investigation, as the all-others rate, we are preliminarily assigning the sole dumping margin in the *Initiation Notice,* which is 73.00 percent.[8]

Preliminary Determination

Commerce preliminarily determines that the following estimated weighted-average dumping margins exist:

Exporter/producer	Dumping margin (percent)
Vestas Eolica S.A.U.	73.00
Acciona Windpower S.A.	73.00
Gamesa Energy Transmission	73.00
Haizea Wind Group	73.00
Kuzar Systems, S.L.	73.00
Proyectos Integrales y Logisticos S.A.A.	73.00
Windar Renovables	73.00
All Others	73.00

Suspension of Liquidation

In accordance with section 773(d)(2) of the Act, Commerce will direct U.S. Customs and Border Protection (CBP) to suspend liquidation of entries of subject merchandise, as described in Appendix I, entered, or withdrawn from warehouse, for consumption on or after the date of the publication of this notice in the **Federal Register**.

Further, pursuant to section 733(d)(1)(B) of the Act and 19 CFR 351.205(d), Commerce will instruct CBP to require a cash deposit equal to the margins indicated in the chart above. These suspension of liquidation instructions will remain in effect until further notice.

Disclosure

Normally, Commerce discloses to interested parties the calculations performed in connection with a preliminary determination within five days of any public announcement or, if there is no public announcement, within five days of the date of publication of the notice of preliminary determination in the **Federal Register**, in accordance with 19 CFR 351.224(b). However, because Commerce preliminarily applied AFA to the Vestas Eolica in this investigation, in accordance with section 776 of the Act, there are no calculations to disclose.

Verification

Because Vestas Eolica indicated its intent not to participate in this investigation, and Commerce preliminarily determines that this company was uncooperative, we will not conduct verification.

Public Comment

Interested parties are invited to comment on this preliminary determination no later than 30 days after the date of publication of the preliminary determination.[9] Rebuttal briefs, limited to issues raised in case briefs, may be submitted no later than seven days after the deadline for case briefs.[10] Commerce has modified certain of its requirements for service documents containing business proprietary information, until further notice.[11] Pursuant to 19 CFR 351.309(c)(2) and (d)(2), parties who submit case briefs or rebuttal briefs in this investigation are encouraged to submit with each argument: (1) A statement of the issue; (2) a brief summary of the argument; and (3) a table of authorities.

[5] These non-responsive companies are: Acciona Windpower S.A.; Gamesa Energy Transmission; Haizea Wind Group; Kuzar Systems S.L.; Proyectos Integrales y Logisticos S.A.A.; and Windar Renovables.

[6] The members of the Wind Tower Trade Coalition are Arcosa Wind Towers Inc. and Broadwind Towers, Inc.

[7] *See* Petitioner's Letter, ''Utility Scale Wind Towers from India, Malaysia and Spain: Petitions for the Imposition of Antidumping and Countervailing Duties,'' dated September 30, 2020 (Petition); *see also* Anti-Dumping Investigation Initiation Checklist—Utility Scale Wind Towers from Spain (November 9, 2020) (Initiation Checklist).

[8] *See, e.g., Mattresses From Malaysia: Preliminary Affirmative Determination of Sales at Less Than Fair Value, Postponement of Final Determination, and Extension of Provisional Measures,* 85 FR 69574 (November 3, 2020), unchanged in *Mattresses from Malaysia: Final Affirmative Determination of Sales at Less Than Fair Value,* 86 FR 15901 (March 25, 2021); and *Refillable Stainless Steel Kegs From Mexico: Preliminary Affirmative Determination of Sales at Less Than Fair* Value, 84 FR 25738 (June 4, 2019) unchanged in *Refillable Stainless Steel Kegs From Mexico: Final Affirmative Determination of Sales at Less Than Fair Value and Final Affirmative Determination of Critical Circumstances,* 84 FR 42894 (August 19, 2019); *see also Initiation Notice,* 85 FR at 73026.

[9] *See* 19 CFR 351.309(c)(1)(i); *see also* 19 CFR 351.303 (for general filing requirements).

[10] *See* 19 CFR 351.309(d); *see also* 19 CFR 351.303 (for general filing requirements).

[11] *See Temporary Rule Modifying AD/CVD Service Requirements Due to COVID–19,* 85 FR 17006 (March 26, 2020); and *Temporary Rule Modifying AD/CVD Service Requirements Due to COVID–19; Extension of Effective Period,* 85 FR 41363 (July 10, 2020) (collectively, *Temporary Rule*).

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing, limited to issues raised in the case and rebuttal briefs, must submit a written request to the Assistant Secretary for Enforcement and Compliance, U.S. Department of Commerce, within 30 days after the date of publication of this notice. Requests should contain the party's name, address, and telephone number, the number of participants, whether any participant is a foreign national, and a list of the issues to be discussed. If a request for a hearing is made, Commerce intends to hold the hearing at a time and date to be determined. Parties should confirm by telephone the date, time, and location of the hearing two days before the scheduled date.

Final Determination

Section 735(a)(1) of the Act and 19 CFR 351.210(b)(1) provide that Commerce will issue the final determination within 75 days after the date of its preliminary determination. Accordingly, Commerce will make its final determination no later than 75 days after the signature date of this preliminary determination.

International Trade Commission Notification

In accordance with section 733(f) of the Act, Commerce will notify the International Trade Commission (ITC) of its preliminary determination. If the final determination is affirmative, the ITC will determine before the later of 120 days after the date of this preliminary determination or 45 days after the final determination whether these imports are materially injuring, or threaten material injury to, the U.S. industry.

Notification to Interested Parties

This determination is issued and published in accordance with sections 733(f) and 777(i)(1) of the Act, and 19 CFR 351.205(c).

Dated: March 29, 2021.

Christian Marsh,

Acting Assistant Secretary for Enforcement and Compliance.

Appendix I—Scope of the Investigation

The merchandise covered by this investigation consists of certain wind towers, whether or not tapered, and sections thereof. Certain wind towers support the nacelle and rotor blades in a wind turbine with a minimum rated electrical power generation capacity in excess of 100 kilowatts and with a minimum height of 50 meters measured from the base of the tower to the bottom of the nacelle (*i.e.,* where the top of the tower and nacelle are joined) when fully assembled.

A wind tower section consists of, at a minimum, multiple steel plates rolled into cylindrical or conical shapes and welded together (or otherwise attached) to form a steel shell, regardless of coating, end-finish, painting, treatment, or method of manufacture, and with or without flanges, doors, or internal or external components (*e.g.,* flooring/decking, ladders, lifts, electrical buss boxes, electrical cabling, conduit, cable harness for nacelle generator, interior lighting, tool and storage lockers) attached to the wind tower section. Several wind tower sections are normally required to form a completed wind tower.

Wind towers and sections thereof are included within the scope whether or not they are joined with non-subject merchandise, such as nacelles or rotor blades, and whether or not they have internal or external components attached to the subject merchandise.

Specifically excluded from the scope are nacelles and rotor blades, regardless of whether they are attached to the wind tower. Also excluded are any internal or external components which are not attached to the wind towers or sections thereof, unless those components are shipped with the tower sections.

Merchandise covered by this investigation is currently classified in the Harmonized Tariff Schedule of the United States (HTSUS) under subheading 7308.20.0020 or 8502.31.0000. Wind towers of iron or steel are classified under HTSUS 7308.20.0020 when imported separately as a tower or tower section(s). Wind towers may be classified under HTSUS 8502.31.0000 when imported as combination goods with a wind turbine (*i.e.,* accompanying nacelles and/or rotor blades). While the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of this investigation is dispositive.

Appendix II—List of Topics Discussed in the Preliminary Decision Memorandum

I. Summary
II. Background
III. Period of Investigation
IV. Scope of the Investigation
V. Scope Comments
VI. Application of Facts Available, Use of Adverse Inferences, Corroboration, and Calculation of All-Others Rate
VII. Recommendation

[FR Doc. 2021–06869 Filed 4–1–21; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Commission

[C–570–980]

Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled Into Modules, From the People's Republic of China: Notice of Amended Final Results of the 2017 Countervailing Duty Administrative Review

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

SUMMARY: The Department of Commerce (Commerce) is amending its notice of the final results of the sixth administrative review of the countervailing duty (CVD) order on crystalline silicon photovoltaic cells, whether or not assembled into modules (solar cells), from the People's Republic of China (China). The period of review (POR) is January 1, 2017, through December 31, 2017.

DATES: Applicable April 2, 2021.

FOR FURTHER INFORMATION CONTACT: Gene H. Calvert, AD/CVD Operations, Office VII, Enforcement and Compliance, International Trade Administration, Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–3586.

SUPPLEMENTARY INFORMATION:

Background

On December 9, 2020, Commerce published the final results of the 2017 administrative review of the CVD order on solar cells from China in the **Federal Register**.[1] On December 2, 2020, LONGi Solar Technology Co. Ltd. (LONGi) submitted a ministerial error allegation stating that Commerce incorrectly identified it as ''LERRI Solar Technology Co., Ltd.'' (LERRI) when, according to LONGi, its name is ''LONGi Solar Technology Co. Ltd. (a.k.a. LERRI Solar Technology Co., Ltd.).'' On December 28, 2020, ministerial error allegations were timely submitted by JA Solar Technology Yangzhou Co., Ltd. (JA Solar),[2] Risen

[1] *See Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled Into Modules, from the People's Republic of China: Final Results of Countervailing Duty Administrative Review; 2017,* 85 FR 79163 (December 9, 2020) (*Final Results*), and accompanying Issues and Decision Memorandum (IDM).

[2] *See* JA Solar's Letter, ''Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled into Modules from the People's Republic of China: Ministerial Error Comments,'' dated December 28, 2020.

Energy Co., Ltd. (Risen Energy),[3] and Trina Solar Co., Ltd. (formerly Changzhou Trina Solar Energy Co., Ltd.) (Trina Solar).[4] JA Solar alleged that Commerce made certain errors when calculating its benefits regarding the Provision of Solar Grade Polysilicon for Less Than Adequate Remuneration (LTAR) and the Provision of Land for LTAR programs. Risen Energy alleged that Commerce relied on incorrect inland freight costs when calculating its benefits for the Provision of Solar Glass for LTAR and the Provision of Aluminum Extrusions for LTAR programs. Finally, Trina Solar alleged that Commerce identified it incorrectly in the *Final Results.* No interested party commented on any of these allegations.

Scope of the Order

The merchandise covered by the order is crystalline silicon photovoltaic cells, and modules, laminates, and panels, consisting of crystalline silicon photovoltaic cells, whether or not partially or fully assembled into other products, including, but not limited to, modules, laminates, panels, and building integrated materials.[5] Merchandise covered by the order is classifiable under subheading 8501.61.0000, 8507.20.80, 8541.40.6020, 8541.40.6030, and 8501.31.8000 of the Harmonized Tariff Schedule of the United States (HTSUS). Although the HTSUS subheadings are provided for convenience and customs purposes, our written description of the scope of the order is dispositive.

Ministerial Errors

Section 351.224(e) of Commerce's regulations provides that Commerce will analyze any comments received and, if appropriate, correct any ministerial error by amending the final determination or the final results of the review. Section 751(h) of the Tariff Act of 1930, as amended (the Act), and 19 CFR 351.224(f) define a ''ministerial error'' as an error ''in addition, subtraction, or other arithmetic function, clerical error resulting from inaccurate copying, duplication, or the like, and any other similar type of unintentional error which the Secretary considers ministerial.''

We analyzed the ministerial error comments and determined, in accordance with section 751(h) of the Act and 19 CFR 351.224(e) and (f), that we made the following ministerial errors:[6]

(1) In the *Final Results,* we inadvertently did not include the sales from one of JA Solar's certain cross-owned affiliates when calculating its sales denominator for the Provision of Solar Grade Polysilicon for LTAR program.

(2) We incorrectly calculated the benefit for certain of JA Solar's cross-owned affiliates with respect to the Provision of Land for LTAR Program by erroneously applying POR payments to separate land parcels instead of applying these payments to a single parcel; incorrectly relying on the land benchmark price instead of the benefit at the time of receipt to allocate benefits across the average useful life, including the POR and; incorrectly including a land parcel in JA Solar's benefit calculation even though benefits from this land parcel were expensed prior to the POR.

(3) As noted by Risen Energy, we applied an incorrect inland freight value when building Risen Energy's benchmarks for the Provision of Solar Glass for LTAR and the Provision of Aluminum Extrusions for LTAR program.

(4) We incorrectly referenced Trina Solar as ''Trina Solar Energy Co., Ltd.,'' instead of as ''Trina Solar Co., Ltd.'' when listing the Non-Selected Companies Under Review.

(5) Finally, we independently identified a ministerial error which was committed when we inadvertently did not include Shanghai JA Solar Technology Co., Ltd. as one of JA Solar's cross-owned entities in the *Final Results.*

We find that we did not commit a ministerial error by not including ''LONGi Solar Technology Co., Ltd.'' in the name that we used to identify LERRI, because a review was requested and initiated under the name LERRI and not under LONGi.[7] Thus, our omission of LONGi was not a ministerial error.

Amended Final Results of Review

As a result of correcting the ministerial errors as alleged by JA Solar and Risen Energy, we determine that the following countervailable subsidy rates exist for the POR:

Company	Subsidy rate (*ad valorem*) (percent)
JA Solar Technology Yangzhou, Co., Ltd. (JA Solar)[8]	14.43
Risen Energy Co., Ltd. (Risen Energy)[9]	10.86
Non-Selected Companies Under Review[10]	11.97

Assessment Rates/Cash Deposit Rates

Normally, Commerce would issue appropriate assessment instructions to U.S. Customs and Border Protection (CBP) 35 days after the date of publication of these amended final results of review, to liquidate shipments of subject merchandise produced and/or exported by the companies listed above entered, or withdrawn from warehouse, for consumption on or after January 1, 2017, through December 31, 2017. However, between January 15 and February 3, 2021, the Court of International Trade (the Court) enjoined

[3] *See* Risen Energy's Letter, ''Crystalline Silicon Photovoltaic Cells from the People's Republic of China: Ministerial Error,'' dated December 28, 2020.

[4] *See* Trina Solar's Letter, ''Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled Into Modules from the People's Republic of China: Request for Correction of Clerical Error in Final Results and Forthcoming Draft Customs,'' dated December 28, 2020.

[5] For a complete description of the scope of the order, *see Final Results* IDM.

[6] *See* Memorandum, ''Countervailing Duty Administrative Review of Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled Into Modules, from the People's Republic of China: Allegations of Ministerial Errors in the Final Results,'' dated concurrently with, and hereby adopted by, this notice.

[7] *See Initiation of Antidumping and Countervailing Duty Administrative Reviews,* 84 FR 9297 (March 14, 2019).

[8] As identified in the *Final Results,* JA Solar is cross-owned with Shanghai JA Solar Technology Co., Ltd.; JA (Hefei) Renewable Energy Co., Ltd.; Hefei JA Solar Technology Co., Ltd.; JA Solar Investment China Co., Ltd.; JA Solar Technology Yangzhou Co., Ltd.; Jing Hai Yang Semiconductor Material (Donghai) Co., Ltd.; Donghai JingAo The Solar Energy Science and Technology Co., Ltd.; Solar Silicon Valley Electronic Science and Technology Co., Ltd.; Jingwei Electronic Materials Co., Ltd.; Hebei Yujing Electronic Science and Technology Co., Ltd.; Solar Silicon Peak Electronic Science and Technology Co., Ltd.; Beijing Jinfeng Investment Co., Ltd.; Jinglong Technology Holdings Co., Ltd.; JingAo Solar Co., Ltd.; Ningjin Songgong Electronic Materials Co., Ltd.; Jinglong Industry and Commerce Group Co., Ltd.; Ningjin Guiguang Electronic Investment Co., Ltd.; Ningjin County Jingyuan New Energy Investment Co., Ltd.; Hebei Jinglong Fine Chemicals Co., Ltd.; Ningjin Sunshine New Energy Co., Ltd.; Hebei Jinglong Sunshine Equipment Co., Ltd.; Hebei Jingle Optoelectronic Technology Co., Ltd.; Hebei Ningjin Songgong Semiconductor Co., Ltd.; Ningjin Jingxing Electronic Material Co., Ltd.; Ningjin Jingfeng Electronic Materials Co., Ltd.; Ningjin Saimei Ganglong Electronic Materials Co., Ltd.; Hebei Ningtong Electronic Materials Co., Ltd.; Ningjin Changlong Electronic Materials Manufacturing Co. Ltd.; JA Solar (Xingtai) Co., Ltd.; Xingtai Jinglong Electronic Material Co., Ltd.; Xingtai Jinglong PV Materials Co., Ltd.; Taicang Juren PV Material Co., Ltd.; JA PV Technology Co., Ltd.; Ningjin Longxin Investment Co., Ltd.; and Ningjin Jinglong PV Industry Investment Co., Ltd.

[9] As identified in the *Final Results,* Risen Energy is cross-owned with Changzhou Sveck Photovoltaic New Material Co., Ltd.; Changzhou Sveck New Material Technology Co., Ltd.; JiuJiang Shengchao Xinye Technology Co., Ltd.; Jiangsu Sveck New Material Co., Ltd.; Ninghai Risen Energy Power Development Co., Ltd.; Risen (Luoyang) New Energy Co., Ltd.; Risen (Ningbo) Electric Power Development Co., Ltd.; Risen (Wuhai) New Energy Co., Ltd.; Zhejiang Boxin Investment Co., Ltd.; and Zhejiang Twinsel Electronic Technology Co., Ltd.

[10] *See* the Appendix to this notice.

liquidation of certain entries that are subject to the *Final Results.*[11] Accordingly, Commerce will not instruct CBP to assess countervailing duties on those enjoined entries pending resolution of the associated litigation.

Commerce intends to instruct CBP to collect cash deposits of estimated countervailing duties, in the amounts shown above for the companies listed above, on shipments of subject merchandise entered, or withdrawn from warehouse, for consumption, on or after December 9, 2020, which is the date of the *Final Results.* For all non-reviewed firms, Commerce will instruct CBP to collect cash deposits at the most recent company-specific or all-others rate applicable to the company, as appropriate. These cash deposits, when imposed, shall remain in effect until further notice.

Administrative Protective Order

This notice also serves as a reminder to parties that are subject to administrative protective order (APO) of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3), which continues to govern business proprietary information in this segment of the proceeding. Timely written notification of the return/destruction of APO materials, or conversion to judicial protective order, is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

Disclosure

Commerce intends to disclose the calculations performed for these amended final results to interested parties within five business days of the date of this notice in accordance with 19 CFR 351.224(b).

Notification to Interested Parties

Commerce is issuing and publishing these amended final results in accordance with sections 751(h) and 771(i)(1) of the Act, and 19 CFR 351.224(e).

Dated: March 29, 2021.

Christian Marsh,

Acting Assistant Secretary for Enforcement and Compliance.

Appendix

Non-Selected Companies Under Review

1. Anji DaSol Solar Energy Science & Technology Co., Ltd.
2. Baoding Jiasheng Photovoltaic Technology Co., Ltd.
3. Baoding Tianwei Yingli New Energy Resources Co., Ltd.
4. Beijing Tianneng Yingli New Energy Resources Co., Ltd.
5. BYD (Shangluo) Industrial Co., Ltd.
6. Canadian Solar (USA) Inc.
7. Canadian Solar Inc.
8. Canadian Solar International Ltd.
9. Canadian Solar Manufacturing (Changshu) Inc.
10. Canadian Solar Manufacturing (Luoyang) Inc.
11. Changzhou Trina Solar Yabang Energy Co., Ltd.
12. CSI Cells Co., Ltd.
13. CSI–GCL Solar Manufacturing (Yancheng) Co., Ltd.
14. De-Tech Trading Limited HK
15. Dongguan Sunworth Solar Energy Co., Ltd.
16. Eoplly New Energy Technology Co., Ltd.
17. ERA Solar Co., Ltd.
18. ET Solar Energy Limited
19. Hainan Yingli New Energy Resources Co., Ltd.
20. Hangzhou Sunny Energy Science and Technology Co., Ltd.
21. Hengdian Group DMEGC Magnetics Co., Ltd.
22. Hengshui Yingli New Energy Resources Co., Ltd.
23. Hubei Trina Solar Energy Co., Ltd.
24. JA Technology Yangzhou Co., Ltd.
25. Jiangsu High Hope Int'l Group
26. Jiawei Solarchina (Shenzhen) Co., Ltd.
27. Jiawei Solarchina Co., Ltd.
28. Jinko Solar (U.S.) Inc.
29. Jinko Solar Co., Ltd.
30. Jinko Solar Import and Export Co., Ltd.
31. Jinko Solar International Limited
32. LERRI Solar Technology Co., Ltd.
33. Lightway Green New Energy Co., Ltd.
34. Lixian Yingli New Energy Resources Co., Ltd.
35. Luoyang Suntech Power Co., Ltd.
36. Nice Sun PV Co., Ltd.
37. Ningbo ETDZ Holdings, Ltd.
38. Ningbo Qixin Solar Electrical Appliance Co., Ltd.
39. Shanghai BYD Co., Ltd.
40. Shenzhen Sungold Solar Co., Ltd.
41. Shenzhen Yingli New Energy Resources Co., Ltd.
42. Sumec Hardware & Tools Co., Ltd.
43. Sunpreme Solar Technology (Jiaxing) Co., Ltd.
44. Systemes Versilis, Inc.
45. Taizhou BD Trade Co., Ltd.
46. TenKsolar (Shanghai) Co., Ltd.
47. Tianjin Yingli New Energy Resources Co., Ltd.
48. Tianneng Yingli New Energy Resources Co., Ltd.
49. Toenergy Technology Hangzhou Co., Ltd.
50. Trina Solar (Changzhou) Science & Technology Co., Ltd.
51. Trina Solar Co., Ltd. (formerly known as Changzhou Trina Solar Energy Co., Ltd.)
52. Turpan Trina Solar Energy Co., Ltd.
53. Wuxi Suntech Power Co., Ltd.
54. Wuxi Tianran Photovoltaic Co., Ltd.
55. Yancheng Trina Solar Energy Technology Co., Ltd.
56. Yingli Energy (China) Co., Ltd.
57. Yingli Green Energy Holding Company Limited
58. Yingli Green Energy International Trading Company Limited
59. Zhejiang ERA Solar Technology Co., Ltd.
60. Zhejiang Jinko Solar Co., Ltd.

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[11] The Court issued statutory injunctions under case number 20–03912, dated January 15, 2021, and February 3, 2021.

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–053]

Certain Aluminum Foil From the People's Republic of China: Amended Final Results of Antidumping Duty Administrative Review; 2017–2019

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

SUMMARY: The Department of Commerce (Commerce) is amending the final results of the administrative review of the antidumping duty (AD) order on certain aluminum foil (aluminum foil) from the People's Republic of China (China) to correct ministerial errors.

DATES: Applicable April 2, 2021.

FOR FURTHER INFORMATION CONTACT: Chelsey Simonovich or Michael J. Heaney AD/CVD Operations, Office VI, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–1979 or (202) 482–4475, respectively.

SUPPLEMENTARY INFORMATION:

Background

On February 25, 2021, Commerce published the *Final Results* of the 2017–2019 administrative review of aluminum foil from China in the **Federal Register**.[1] On February 24, 2021, Dingsheng Aluminium Industries (Hong Kong) Trading Co., Limited (Dingsheng Aluminium Industries (Hong Kong) Trading Co., Ltd.) (HK Dingsheng) and Hangzhou Dingsheng Import & Export Co., Ltd. (Hangzhou Dingsheng Import and Export Co., Ltd.) (Hangzhou Dingsheng IE) (collectively, Dingsheng), alleged the existence of a ministerial error in Commerce's *Final Results.*[2] On March 1, 2021, the

[1] *See Certain Aluminum Foil from the People's Republic of China: Final Results of Antidumping Duty Administrative Review; Final Determination of No Shipments; 2017–2019,* 86 FR 11499 (February 25, 2021) (*Final Results*).

[2] *See* Dingsheng's Letter, ''GDLSK Respondents Request for Correction of Clerical Error in the Final Results including Customs Instructions: First Administrative Review of the Antidumping Duty Order on Aluminum Foil from the People's

Aluminum Association Trade Enforcement Working Group and its individual members (collectively, the petitioners),[3] also alleged the existence of a ministerial error in Commerce's *Final Results*.[4] On March 4, 2021, Xiamen Xiashun Aluminum Foil Co., Ltd. (Xiashun), a respondent party in this administrative review, filed rebuttal comments to the petitioners' ministerial allegations.[5]

Legal Framework

A ministerial error, as defined in section 751(h) of the Tariff Act of 1930, as amended (the Act), includes ''errors in addition, subtraction, or other arithmetic function, clerical errors resulting from inaccurate copying, duplication, or the like, and any other type of unintentional error which the administering authority considers ministerial.''[6] With respect to final results of administrative reviews, 19 CFR 351.224(e) provides that Commerce ''will analyze any comments received and, if appropriate, correct any ministerial error by amending . . . the final results of review.''

Ministerial Error

Commerce committed inadvertent errors within the meaning of section 751(h) of the Act and 19 CFR 351.224(f) by incorrectly listing the names of HK Dingsheng and Hangzhou Dingsheng IE in the *Final Results* and failing to convert Xiashun's value-added tax (VAT) into the correct unit of measure. Accordingly, we determine, in accordance with section 751(h) of the Act and 19 CFR 351.224(f), that we made ministerial errors in the *Final Results.* Pursuant to 19 CFR 351.224(e), we are amending the *Final Results* to correct these errors. These corrections result in a change to Xiashun's weighted-average dumping margin and to the rate calculated for the respondents which are eligible for a separate rate, but that were not selected for individual examination. We have also corrected Dingsheng's company names below. For a detailed discussion of the ministerial error allegation, as well as Commerce's analysis, *see* Ministerial Error Memorandum.[7]

Amended Final Results of the Review

We are assigning the following weighted-average dumping margins to the firms listed below for the period November 2, 2017, through March 31, 2019:

Exporter	Weighted-average margin (percent)
Jiangsu Zhongji Lamination Materials Co., (HK) Ltd./Jiangsu Zhongji Lamination Materials Stock Co., Ltd./Jiangsu Zhongji Lamination Materials Co., Ltd./Jiangsu Huafeng Aluminum Industry Co., Ltd	23.62
Xiamen Xiashun Aluminum Foil Co., Ltd	48.64
Alcha International Holdings Limited	36.13
Dingsheng Aluminium Industries (Hong Kong) Trading Co., Limited (Dingsheng Aluminium Industries (Hong Kong) Trading Co., Ltd.)	36.13
Granges Aluminum (Shanghai) Co., Ltd	36.13
Hangzhou Dingsheng Import&Export Co., Ltd. (Hangzhou Dingsheng Import and Export Co., Ltd.)	36.13
Hunan Suntown Marketing Limited	36.13
Jiangsu Alcha Aluminum Co., Ltd	36.13
Shanghai Shenyan Packaging Materials Co	36.13
SNTO International Trade Limited	36.13
Suzhou Manakin Aluminum Processing Technology Co., Ltd	36.13

For the respondents which are eligible for a separate rate, but were not selected for individual examination in this administrative review, we have assigned a margin based on the simple average of the dumping margins calculated for Zhongji and Xiashun, consistent with section 735(c)(3)(A) of the Act.

China-Wide Entity

Commerce's policy regarding conditional review of the China-wide entity applies to this administrative review.[8] Under this policy, the China-wide entity will not be under review unless a party specifically requests, or Commerce self-initiates, a review of the entity. Because no party requested a review of the China-wide entity in this review, the entity is not under review and the entity's rate (*i.e.,* 105.80 percent) is not subject to change.[9]

Assessment Rates

Commerce shall determine, and U.S. Customs and Border Protection (CBP) shall assess, antidumping duties on all appropriate entries of subject merchandise in accordance with section 751(a)(2)(C) of the Act and 19 CFR 351.212(b). In accordance with 19 CFR 351.212(b)(1), we have calculated importer-specific assessment rates for merchandise subject to this review. We calculated importer (or customer)-specific assessment rates for merchandise subject to this review on a per-unit (*i.e.,* per-kilogram) basis. Specifically, we calculated a per-unit assessment rate by aggregating the antidumping duties due for all U.S. sales to that importer (or customer) and divided this amount by the total quantity sold to that importer (or customer) during the POR. To determine whether the duty assessment rates are *de minimis,* in accordance with the requirement set forth in 19 CFR 351.106(c)(2), we calculate importer—(or customer-) specific *ad valorem* ratios based on the estimated entered value. If an importer (or customer)-specific assessment rate is *de minimis* (*i.e.,* less than 0.50 percent), Commerce will

Republic of China (A–570–053),'' dated February 24, 2021.

[3] The individual members of the Aluminum Association Trade Enforcement Working Group are: JW Aluminum Company, Novelis Corporation, and Reynolds Consumer Products LLC.

[4] *See* Petitioners' Letter, ''1st Administrative Review of the Antidumping Duty Order on Certain Aluminum Foil from the People's Republic of China—Petitioners' Ministerial Error Comments,'' dated March 1, 2021.

[5] *See* Xiashun's Letter, ''Aluminum Foil from the People's Republic of China: Response to Ministerial Error Comments,'' dated March 4, 2021.

[6] *See* 19 CFR 351.224(f).

[7] *See* Memorandum, ''Antidumping Duty Administrative Review of Aluminum Foil from the People's Republic of China: Ministerial Error Memorandum,'' dated concurrently with this notice (Ministerial Error Memorandum).

[8] *See Antidumping Proceedings: Announcement of Change in Department Practice for Respondent Selection in Antidumping Duty Proceedings and Conditional Review of the Nonmarket Economy Entity in NME Antidumping Duty Proceedings,* 78 FR 65963 (November 4, 2013).

[9] *See Certain Aluminum Foil from the People's Republic of China: Amended Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order,* 83 FR at 17363 (April 19, 2018) (*Order*).

instruct CBP to liquidate that importer's (or customer's) entries of subject merchandise without regard to antidumping duties.

Consistent with its recent notice,[10] Commerce intends to issue assessment instructions to CBP no earlier than 35 days after the date of publication of the amended final results of this review in the **Federal Register**. If a timely summons is filed at the U.S. Court of International Trade, the assessment instructions will direct CBP not to liquidate relevant entries until the time for parties to file a request for a statutory injunction has expired (*i.e.,* within 90 days of publication).

Cash Deposit Requirements

The following cash deposit requirements will be effective upon publication of the amended final results of this administrative review for shipments of the subject merchandise from China entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided by section 751(a)(2)(C) of the Act: (1) For Xiashun and Zhongji and for each of the companies identified above as eligible for a separate rate, the cash deposit rate will be equal to the weighted-average dumping margin established in the amended final results of this review; (2) for previously investigated or reviewed Chinese and non-Chinese exporters not listed above that have received a separate rate in a prior segment of this proceeding, the cash deposit rate will continue to be the existing exporter-specific cash deposit rate published for the completed segment of the most recent period; (3) for all Chinese exporters of subject merchandise that have not been found to be entitled to a separate rate, the cash deposit rate will be the rate for the China-wide entity; and (4) for all non-Chinese exporters of subject merchandise which have not received their own separate rate, the cash deposit rate will be the rate applicable to the Chinese exporter that supplied that non-Chinese exporter. These cash deposit requirements, when imposed, shall remain in effect until further notice.

Notification to Importers

This notice also serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this POR. Failure to comply with this requirement could result in Commerce's presumption that reimbursement of antidumping duties has occurred and the subsequent assessment of double antidumping duties.

Administrative Protective Orders

This notice also serves as a final reminder to parties subject to administrative protective order (APO) of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3), which continues to govern business proprietary information in this segment of the proceeding. Timely written notification of the return or destruction of APO materials, or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanction.

Notification to Interested Parties

This amended notice is issued and published in accordance with sections 751(h) and 777(i) of the Act.

Dated: March 29, 2021.

Christian Marsh,

Acting Assistant Secretary for Enforcement and Compliance.

Appendix

List of Topics Discussed in the Ministerial Error Memorandum

I. Summary
II. Scope of the Order
III. Legal Authority
IV. Discussion of the Issues
  Comment 1: HK Dingsheng and Hangzhou Dingsheg IE Company Names
  Comment 2: Xiashun VAT Conversion
V. Recommendation

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[10] *See Notice of Discontinuation of Policy to Issue Liquidation Instructions After 15 Days in Applicable Antidumping and Countervailing Duty Administrative Proceedings,* 86 FR 3995 (January 15, 2021).

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–832]

Pure Magnesium From the People's Republic of China: Preliminary Results of Antidumping Administrative Review; 2019–20

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

SUMMARY: The Department of Commerce (Commerce) is conducting the administrative review of the antidumping duty (AD) order on pure magnesium from the People's Republic of China (China). The period of review (POR) is May 1, 2019, through April 30, 2020. Commerce preliminarily determines that Tianjin Magnesium International Co., Ltd. and Tianjin Magnesium Metal Co., Ltd. (collectively, TMI/TMM) did not have any shipments during the POR. We invite interested parties to comment on these preliminary results.

DATES: Applicable April 2, 2021.

FOR FURTHER INFORMATION CONTACT: Kyle Clahane, AD/CVD Operations, Office III, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–5449.

SUPPLEMENTARY INFORMATION:

Background

On May 1, 2020, Commerce published in the **Federal Register** a notice of opportunity to request an administrative review of the AD order on pure magnesium from China for the POR.[1] On July 10, 2020, in response to a timely request from the petitioner,[2] and in accordance with section 751(a) of the Tariff Act of 1930, as amended (the Act), and 19 CFR 351.221(c)(1)(i), we initiated an administrative review of the *Order* with respect to TMI/TMM.[3] On July 21, 2020, Commerce tolled all deadlines in administrative reviews by 60 days.[4] The deadline for the preliminary results of this review is now April 1, 2021.

Scope of the Order

The product covered by this antidumping duty order is pure magnesium from China, regardless of chemistry, form or size, unless expressly

[1] *See Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity To Request Administrative Review,* 85 FR 25394 (May 1, 2020); *see also Notice of Antidumping Duty Orders: Pure Magnesium from the People's Republic of China, the Russian Federation and Ukraine; Notice of Amended Final Determination of Sales at Less Than Fair Value: Antidumping Duty Investigation of Pure Magnesium from the Russian Federation,* 60 FR 25691 (May 12, 1995) (*Order*).

[2] *See* US Magnesium LLC's Letter, ''Request For Administrative Review,'' dated May 29, 2020.

[3] *See Initiation of Antidumping and Countervailing Duty Administrative Reviews,* 85 FR 41540 (July 10, 2020). In the 2011–2012 administrative review of the order, Commerce collapsed TMM and TMI, and treated the companies as a single entity for purposes of the proceeding. Because there were no changes to the facts which supported that decision since that determination was made, we continue to find that these companies are part of a single entity for this administrative review. *See Pure Magnesium from the People's Republic of China: Final Results of Antidumping Duty Administrative Review; 2011–2012,* 79 FR 94 (January 2, 2014), and accompanying Issues and Decision Memorandum at Comment 5.

[4] *See* Memorandum, ''Tolling of Deadlines for Antidumping and Countervailing Duty Administrative Reviews,'' dated July 21, 2020.

excluded from the scope of the order. Pure magnesium is a metal or alloy containing by weight primarily the element magnesium and produced by decomposing raw materials into magnesium metal. Pure primary magnesium is used primarily as a chemical in the aluminum alloying, desulfurization, and chemical reduction industries. In addition, pure magnesium is used as an input in producing magnesium alloy. Pure magnesium encompasses products (including, but not limited to, butt ends, stubs, crowns and crystals) with the following primary magnesium contents:

(1) Products that contain at least 99.95% primary magnesium, by weight (generally referred to as ''ultra pure'' magnesium) Magnesium Alloy''[5] and are thus outside the scope of the existing antidumping orders on magnesium from China (generally referred to as ''alloy'' magnesium).

(2) Products that contain less than 99.95%, but not less than 99.8%, primary magnesium, by weight (generally referred to as ''pure'' magnesium); and

(3) Products that contain 50% or greater, but less than 99.8% primary magnesium, by weight, and that do not conform to ASTM specifications for alloy magnesium (generally referred to as ''off-specification pure'' magnesium).

''Off-specification pure'' magnesium is pure primary magnesium containing magnesium scrap, secondary magnesium, oxidized magnesium or impurities (whether or not intentionally added) that cause the primary magnesium content to fall below 99.8% by weight. It generally does not contain, individually or in combination, 1.5% or more, by weight, of the following alloying elements: Aluminum, manganese, zinc, silicon, thorium, zirconium and rare earths.

Excluded from the scope of the order are alloy primary magnesium (that meets specifications for alloy magnesium), primary magnesium anodes, granular primary magnesium (including turnings, chips and powder) having a maximum physical dimension (*i.e.,* length or diameter) of one inch or less, secondary magnesium (which has pure primary magnesium content of less than 50% by weight), and remelted magnesium whose pure primary magnesium content is less than 50% by weight.

Pure magnesium products covered by the order are currently classifiable under Harmonized Tariff Schedule of the United States (HTSUS) subheadings 8104.11.00, 8104.19.00, 8104.20.00, 8104.30.00, 8104.90.00, 3824.90.11, 3824.90.19 and 9817.00.90. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope is dispositive.

Preliminary Determination of No Shipments

We received timely submissions from TMI and TMM certifying that they did not have sales, shipments, or exports of subject merchandise to the United States during the POR.[6] On November 2, 2020, we requested the U.S. Customs and Border Protection (CBP) data file of entries of subject merchandise imported into the United States during the POR, and exported by TMM/TMI.[7] This query returned no entries during the POR.[8] Additionally, on November 19, 2020, Commerce submitted a no-shipments inquiry to CBP with regard to TMI/TMM,[9] to which CBP responded that it found no shipments of subject merchandise by TMI/TMM during the POR.[10]

Accordingly, and consistent with our practice, we preliminarily determine that TMI/TMM had no shipments during the POR. In addition, we find it is not appropriate to rescind the review with respect to these companies, but rather to complete the review with respect to TMI/TMM and issue appropriate instructions to CBP based on the final results of the review, consistent with our practice in non-market economy (NME) cases.[11]

Public Comment

Interested parties are invited to comment on the preliminary results and may submit case briefs, filed electronically via Enforcement and Compliance's Antidumping Duty and Countervailing Duty Centralized Electronic Service System (ACCESS), within 30 days after the date of publication of these preliminary results of review.[12] ACCESS is available to registered users at *https://access.trade.gov.* Rebuttal briefs, limited to issues raised in the case briefs, must be filed within seven days after the time limit for filing case briefs.[13] Parties who submit case or rebuttal briefs in this proceeding are requested to submit with each argument a statement of the issue, a brief summary of the argument, and a table of authorities.[14] Note that Commerce has temporarily modified certain portions of its requirements for serving documents containing business proprietary information, until further notice.[15]

Interested parties who wish to request a hearing, or to participate if one is requested, must submit a written request to Commerce within 30 days of the date of publication of this notice.[16] Requests should contain: (1) The party's name, address, the telephone number; (2) the number of participants; and (3) a list of issues to be discussed. Issues raised in the hearing will be limited to those raised in the respective case and rebuttal briefs. If a request for a hearing is made, parties will be notified of the time and date for the hearing to be held.[17] Commerce intends to issue the final results of this administrative review, which will include the results of our analysis of all issues raised in the case briefs, within 120 days of publication of these preliminary results in the **Federal Register**, unless extended, pursuant to section 751(a)(3)(A) of the Act.

Assessment Rates

Upon issuance of the final results of this review, Commerce will determine, and CBP will assess, antidumping duties on all appropriate entries covered by this review.[18] Commerce intends to issue assessment instructions to CBP no earlier than 35 days after the date of publication of the final results of this review in the **Federal Register**. If a timely summons is filed at the U.S. Court of International Trade, the assessment instructions will direct CBP not to liquidate relevant entries until the time for parties to file a request for a statutory injunction has expired (*i.e.,* within 90 days of publication). Pursuant to Commerce's practice in NME cases, if we continue to determine in the final

[5] The meaning of this term is the same as that used by the American Society for Testing and Materials (ATSM) in its Annual Book for ASTM Standards: Volume 01.02 Aluminum and Magnesium Alloys.

[6] *See* TMI's Letter, ''No Shipment Certification,'' dated July 17, 2020; *see also* TMM's Letter, ''No Shipment Certification,'' dated July 17, 2020.

[7] *See* Memorandum, ''2019–2020 Administrative Review of Pure Magnesium from the People's Republic of China, Release of U.S. Customs and Border Protection Data,'' dated March 1, 2021 at Attachment 1.

[8] *Id.* at Attachment 2.

[9] *Id.* at Attachment 3.

[10] *Id.* at Attachment 4.

[11] *See Glycine from the People's Republic of China: Final Results of Antidumping Duty Administrative Review 2014–2015,* 81 FR 72567 (October 20, 2016), and the ''Assessment Rates'' section, below.

[12] *See* 19 CFR 351.309(c)(1)(ii).

[13] *See* 19 CFR 351.309(d)(1) and (2); *see also Temporary Rule Modifying AD/CVD Service Requirements Due to*

COVID–19; Extension of Effective Period, 85 FR 41363 (July 10, 2020) (*Temporary Rule*).

[14] *See* 19 CFR 351.309(c) and (d); *see also* 19 CFR 351.303 (for general filing requirements).

[15] *See Temporary Rule.*

[16] *See* 19 CFR 351.310(c).

[17] *See* 19 CFR 310(d).

[18] *See* 19 CFR 351.212(b)(1).

results that TMI/TMM had no shipments of subject merchandise, any suspended entries of subject merchandise during the POR from these companies will be liquidated at the China-wide rate.[19]

Cash Deposit Requirements

The following cash deposit requirements will be effective upon publication of the final results of this administrative review for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of review, as provided for by section 751(a)(2)(C) of the Act: (1) For TMI and TMM, which claimed no shipments, the cash deposit rate will remain unchanged from the rate assigned to TMI/TMM in the most recently completed review of the companies; (2) for previously investigated or reviewed Chinese and non-Chinese exporters who are not under review in this segment of the proceeding but who have separate rates, the cash deposit rate will continue to be the exporter-specific rate published for the most recent period; (3) for all Chinese exporters of subject merchandise that have not been found to be entitled to a separate rate, the cash deposit rate will be the China-wide rate of 111.73 percent;[20] and (4) for all non-Chinese exporters of subject merchandise which have not received their own rate, the cash deposit rate will be the rate applicable to Chinese exporter(s) that supplied that non-Chinese exporter. These deposit requirements, when imposed, shall remain in effect until further notice.

Notification to Importers

This notice also serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in Commerce's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of doubled antidumping duties.

[19] For a full discussion of this practice, *see Non-Market Economy Antidumping Proceedings: Assessment of Antidumping Duties,* 76 FR 65694 (October 24, 2011).

[20] *See Pure Magnesium from the People's Republic of China: Final Results of the 2008–2009 Antidumping Duty Administrative Review of the Antidumping Duty Order,* 75 FR 80791 (December 23, 2010).

Notification to Interested Parties

These preliminary results of review are issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Act and 19 CFR 351.221(b)(4).

Dated: March 25, 2021.

Christian Marsh,

Acting Assistant Secretary for Enforcement and Compliance.

[FR Doc. 2021–06824 Filed 4–1–21; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–560–838, A–557–823, A–549–843, A–552–832]

Polyester Textured Yarn From Indonesia, Malaysia, Thailand, and the Socialist Republic of Vietnam: Postponement of Preliminary Determinations in the Less-Than-Fair-Value Investigations

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

DATES: Applicable April 2, 2021.

FOR FURTHER INFORMATION CONTACT: Peter Shaw at (202) 482–0697 (Indonesia); Daniel Alexander at (202) 482–2000 (Malaysia); Stephanie Berger at (202) 482–2483 (Thailand); Yang Chun at (202) 482–5760 (the Socialist Republic of Vietnam (Vietnam)), AD/CVD Operations, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

Background

On November 17, 2020, the Department of Commerce (Commerce) initiated less-than-fair-value (LTFV) investigations of imports of polyester textured yarn from Indonesia, Malaysia, Thailand, and Vietnam.[1] Currently, the preliminary determinations are due no later than April 6, 2021.

Postponement of Preliminary Determinations

Section 733(b)(1)(A) of the Tariff Act of 1930, as amended (the Act), requires Commerce to issue the preliminary determination in an LTFV investigation within 140 days after the date on which Commerce initiated the investigation. However, section 733(c)(1)(A) of the Act permits Commerce to postpone the preliminary determination until no later than 190 days after the date on which Commerce initiated the investigation if: (A) The petitioner[2] 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.

On March 9, 2021, the petitioners submitted a timely request that Commerce postpone the preliminary determinations in these LTFV investigations.[3] The petitioners stated that it requests postponement due to the lack of time to collect, analyze, and follow up on questionnaire responses from the mandatory respondents in each investigation. The petitioners believe that additional time will allow Commerce to consider the issues raised in each case, review initial and supplemental data submitted by the respondents, and request additional information if necessary.[4]

For the reason stated above, and because there are no compelling reasons to deny the request, Commerce, in accordance with section 733(c)(1)(A) of the Act, is postponing the deadline for the preliminary determinations by 50 days (*i.e.,* 190 days after the date on which these investigations were initiated). As a result, Commerce will issue its preliminary determinations no later than May 26, 2021. In accordance with section 735(a)(1) of the Act and 19 CFR 351.210(b)(1), the deadline for the final determinations of these investigations will continue to be 75 days after the date of the preliminary determinations, unless postponed at a later date.

Notification to Interested Parties

This notice is issued and published pursuant to section 733(c)(2) of the Act and 19 CFR 351.205(f)(1).

[1] *See Polyester Textured Yarn from Indonesia, Malaysia, Thailand, and the Socialist Republic of Vietnam: Initiation of Less-Than-Fair-Value Investigations,* 85 FR 74680 (November 23, 2020).

[2] The petitioners are Unifi Manufacturing, Inc. and Nan Ya Plastics Corporation, America.

[3] *See* Petitioners' Letter, ''Polyester Textured Yarn from Indonesia, Malaysia, Thailand, and the Socialist Republic of Vietnam—Petitioners' Request to Postpone the Preliminary Determinations,'' dated March 9, 2021.

[4] *Id.*

Dated: March 12, 2021.

Christian Marsh,

Acting Assistant Secretary for Enforcement and Compliance.

[FR Doc. 2021–06843 Filed 4–1–21; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

Advisory Committee on Supply Chain Competitiveness: Notice of Public Meetings

AGENCY: International Trade Administration, U.S. Department of Commerce.

ACTION: Notice of open meeting.

SUMMARY: This notice sets forth the schedule and proposed topics of discussion for the upcoming public meeting of the Advisory Committee on Supply Chain Competitiveness (Committee).

DATES: The meeting will be held on April 22, 2021, from 10:00 a.m. to 12:00 p.m. and 1:00 p.m. to 4:00 p.m., Eastern Daylight Time (EDT).

ADDRESSES: The meeting will be held via Webex.

FOR FURTHER INFORMATION CONTACT: Richard Boll, Office of Supply Chain, Professional & Business Services (OSCPBS), International Trade Administration. Email: *richard.boll@trade.gov.*

SUPPLEMENTARY INFORMATION:

Background: The Committee was established under the discretionary authority of the Secretary of Commerce and in accordance with the Federal Advisory Committee Act (5 U.S.C. App.). It provides advice to the Secretary of Commerce on the necessary elements of a comprehensive policy approach to supply chain competitiveness and on regulatory policies and programs and investment priorities that affect the competitiveness of U.S. supply chains. For more information about the Committee visit: *https://www.trade.gov/acscc.*

Matters to Be Considered: Committee members are expected to continue discussing the major competitiveness-related topics raised at the previous Committee meetings, including trade and competitiveness; freight movement and policy; trade innovation; regulatory issues; finance and infrastructure; and workforce development. The Committee's subcommittees will report on the status of their work regarding these topics. The agenda may change to accommodate other Committee business. The Office of Supply Chain, Professional & Business Services will post the final detailed agenda on its website, *https://www.trade.gov/acscc,* at least one week prior to the meeting.

The meeting is open to the public and press on a first-come, first-served basis. Space is limited. Please contact Richard Boll, at *richard.boll@trade.gov,* for participation information.

Interested parties may submit written comments to the Committee at any time before and after the meeting. Parties wishing to submit written comments for consideration by the Committee in advance of this meeting should email them to *richard.boll@trade.gov.*

For consideration during the meeting, and to ensure transmission to the Committee prior to the meeting, comments must be received no later than 5:00 p.m. EST on April 15, 2021. Comments received after April 15, 2021, will be distributed to the Committee, but may not be considered at the meeting. The minutes of the meeting will be posted on the Committee website within 60 days of the meeting.

Eugene Alford,

Supply Chain Team Lead, Office of Supply Chain, Professional and Business Services.

[FR Doc. 2021–06814 Filed 4–1–21; 8:45 am]

BILLING CODE 3510–DR–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–489–822]

Welded Line Pipe From the Republic of Turkey: Final Rescission of Antidumping Duty Administrative Review, in Part, and Final Deferral of Administrative Review, in Part; 2018–2019

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

SUMMARY: The Department of Commerce (Commerce) determines that Cimtas Boru Imalatlari ve Ticaret, Ltd. Sti. (Cimtas), the sole mandatory respondent and only company with suspended entries of subject merchandise during the period of review (POR), did not have reviewable sales during the POR, December 1, 2018, through November 30, 2019. We are deferring, in part, Cimtas' sales reporting until a subsequent review period. Additionally, Commerce is rescinding, in part, this administrative review with respect to the remaining 18 companies for which we initiated a review because they have no reviewable, suspended entries of subject merchandise during the POR.

DATES: Applicable April 2, 2021.

FOR FURTHER INFORMATION CONTACT: Alice Maldonado, 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) 482–4682.

SUPPLEMENTARY INFORMATION:

Background

On December 17, 2020, Commerce published the *Preliminary Results.*[1] Although we invited parties to comment on the preliminary results of the review,[2] no interested party submitted comments. Accordingly, no changes have been made to the *Preliminary Results,* and no decision memorandum accompanies this **Federal Register** notice.[3] Commerce conducted this administrative review in accordance with section 751 of the Tariff Act of 1930, as amended (the Act).

Scope of the Order

The products covered by the order are circular welded carbon and alloy steel (other than stainless steel) pipe of a kind used for oil or gas pipelines (welded line pipe), not more than 24 inches in nominal outside diameter, regardless of wall thickness, length, surface finish, end finish, or stenciling. Welded line pipe is normally produced to the American Petroleum Institute (API) specification 5L, but can be produced to comparable foreign specifications, to proprietary grades, or can be non-graded material. All pipe meeting the physical description set forth above, including multiple-stenciled pipe with an API or comparable foreign specification line pipe stencil is covered by the scope of this order.

The welded line pipe that is subject to the order is currently classifiable in the Harmonized Tariff Schedule of the United States (HTSUS) under subheadings 7305.11.1030, 7305.11.5000, 7305.12.1030, 7305.12.5000, 7305.19.1030, 7305.19.5000, 7306.19.1010, 7306.19.1050, 7306.19.5110, and 7306.19.5150. The subject merchandise may also enter in HTSUS 7305.11.1060 and 7305.12.1060. While the HTSUS subheadings are provided for

[1] *See Welded Line Pipe from the Republic of Turkey: Preliminary Rescission of Antidumping Duty Administrative Review, in Part, and Preliminary Deferral of Administrative Review, in Part; 2018–2019,* 85 FR 81877 (December 17, 2020) (*Preliminary Results*).

[2] *Id.* at 81878–79.

[3] For further details of the events that followed the initiation of this review and the issues addressed in this proceeding, *see Preliminary Results.*

convenience and customs purposes, the written description of the scope of the order is dispositive.

Partial Rescission of Administrative Review

As noted in the *Preliminary Results,* the record of this administrative review indicates that the 18 companies listed in the appendix to this notice have no reviewable, suspended entries of subject merchandise during the POR. It is Commerce's practice to rescind an administrative review pursuant to 19 CFR 351.213(d)(3) when there are no reviewable entries of subject merchandise during the POR for which liquidation is suspended.[4] In the *Preliminary Results,* we preliminarily determined to rescind this administrative review with respect to the 18 companies that have no reviewable, suspended entries of subject merchandise during the POR. We received no comments from interested parties with respect to this record information or the preliminary partial rescission of the administrative review. Therefore, we are rescinding this administrative review, in part, with respect to the 18 companies that have no reviewable entries during the POR.

Partial Deferral of Administrative Review

As noted in the *Preliminary Results,* we determined that there are no reviewable sales to an unaffiliated U.S. customer related to Cimtas' POR entries of subject merchandise and preliminarily determined to defer Cimtas' sales reporting until a subsequent review period.[5] We received no comments from interested parties with respect to this record information. Therefore, we continue to find that Cimtas has no reviewable sales during this POR and we are deferring Cimtas' reporting of its sales to the subsequent review, contingent upon receiving a request for review of Cimtas.

Assessment Rates

We will instruct U.S. Customs and Border Protection (CBP) to liquidate any suspended entries of subject merchandise for the 18 companies listed in the appendix to this notice at the rate in effect at the time of entry. Consistent with its recent notice,[6] Commerce intends to issue assessment instructions to CBP no earlier than 35 days after the date of publication of the final results of this review in the **Federal Register**. If a timely summons is filed at the U.S. Court of International Trade, the assessment instructions will direct CBP not to liquidate relevant entries until the time for parties to file a request for a statutory injunction has expired (*i.e.,* within 90 days of publication).

As Commerce has made a final determination to defer the review with respect to Cimtas' suspended entries of subject merchandise during the POR, these entries will remain suspended until completion of the ongoing review of the antidumping duty order of welded line pipe from Turkey for the period December 1, 2019, through November 30, 2020.[7] When Commerce completes its review and issues final results for the period December 1, 2019, through November 30, 2020, we will instruct CBP to assess antidumping duties on and liquidate Cimtas' suspended entries of subject merchandise during the POR based on the final results of that review. If Commerce receives a timely withdrawal of the request to review Cimtas and rescinds the review with respect to Cimtas for the period December 1, 2019, through November 30, 2020, we will instruct CBP to assess antidumping duties on and liquidate Cimtas' suspended entries of subject merchandise during the POR at the cash deposit rate in effect at the time of entry.

Cash Deposit Requirements

As Commerce has proceeded to a final rescission, in part, and final deferral, in part, of this administrative review, no cash deposit rates will change. Accordingly, the current cash deposit requirements shall remain in effect until further notice.

Notification to Importers

This notice serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in Commerce's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

Administrative Protective Order

This notice serves as the only reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3), which continues to govern business proprietary information in this segment of the proceeding. Timely written notification of return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

Notification to Interested Parties

We are issuing and publishing these results in accordance with sections 751(a)(1) of the Act and 19 CFR 351.213(d).

Dated: March 30, 2021.

James Maeder,

Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

Appendix

Borusan Istikbal Ticaret
Borusan Mannesmann Boru Sanayi ve Ticaret A.S.
Cayirova Boru Sanayi ve Ticaret A.S.
Emek Boru Makina Sanayi ve Ticaret A.S.
Erbosan Erciyas Tube Industry and Trade Co. Inc.
Erciyas Celik Boru Sanayii A.S.
Guven Celik Boru Sanayii ve Ticaret Ltd. Sti.
Has Altinyagmur celik Boru Sanayii ve Ticaret Ltd. Sti.
HDM Steel Pipe Industry & Trade Co. Ltd.
Metalteks Celik Urunleri Sanayii
MMZ Onur Boru Profil Uretim Sanayii ve Ticaret A.S.
Noksel Steel Pipe Co. Inc.
Ozbal Celik Boru
Toscelik Profile and Sheet Industry, Co.
Tosyali Dis Ticaret A.S.
Umran Celik Boru Sanayii
YMS Pipe & Metal Sanayii A.S.
Yucel Boru Ithalat-Ihracat ve Pazarlama A.S.

[FR Doc. 2021–06841 Filed 4–1–21; 8:45 am]

BILLING CODE 3510–DS–P

[4] *See, e.g., Forged Steel Fittings from Taiwan: Rescission of Antidumping Duty Administrative Review; 2018–2019,* 85 FR 71317, 71318 (November 9, 2020); *see also Certain Circular Welded Non-Alloy Steel Pipe from Mexico: Rescission of Antidumping Duty Administrative Review; 2016–2017,* 83 FR 54084 (October 26, 2018).

[5] *See Preliminary Results,* 85 FR at 81878; *see also* Memorandum, ''Antidumping Duty Administrative Review of Welded Line Pipe from the Republic of Turkey: Business Proprietary Information (BPI) Related to the Preliminary Results,'' dated December 17, 2020.

[6] *See Notice of Discontinuation of Policy to Issue Liquidation Instructions After 15 Days in Applicable Antidumping and Countervailing Duty Administrative Proceedings,* 86 FR 884 (January 15, 2021).

[7] *See Initiation of Antidumping and Countervailing Duty Administrative Reviews,* 86 FR 8166, 8171 (February 4, 2021).

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Sanctuary System Business Advisory Council: Public Meeting

AGENCY: Office of National Marine Sanctuaries (ONMS), National Ocean Service (NOS), National Oceanic and

Atmospheric Administration (NOAA), Department of Commerce (DOC).

ACTION: Notice of open public meeting.

SUMMARY: Notice is hereby given of a meeting of the Sanctuary System Business Advisory Council (council). The meeting is open to the public, and an opportunity for oral and written comments will be provided.

DATES: The meeting will be held Friday, April 30, 2021 from 1:00 p.m. to 3:30 p.m. EDT, and an opportunity for public comment will be provided around 3:00 p.m. EDT. Both times and agenda topics are subject to change.

ADDRESSES: The meeting will be held virtually using Google Meet. To participate, please use the website provided below. If you are unable to participate online, you can also connect to the public meeting using the phone number provided.

Website: meet.google.com/bqg-qadx-yxp
Phone: +1 (904) 323–0324, PIN: 632 315 281#

To provide a public comment during the virtual meeting, please sign up in advance by contacting Katie Denman by phone (240–533–0702) or email (*katie.denman@noaa.gov*). Please note, no public comments will be recorded. Public comments, including any associated names, will be captured in the minutes of the meeting, will be maintained by the Office of National Marine Sanctuaries (ONMS) as part of its administrative record, and may be subject to release pursuant to the Freedom of Information Act. By signing up to provide a public comment, you agree that these communications, including your name and comment, will be maintained as described here.

FOR FURTHER INFORMATION CONTACT: Katie Denman, Office of National Marine Sanctuaries, 1305 East-West Highway, Silver Spring, Maryland 20910 (Phone: 240–533–0702; Email: *katie.denman@noaa.gov*).

SUPPLEMENTARY INFORMATION: ONMS serves as the trustee for a network of underwater parks encompassing more than 620,000 square miles of marine and Great Lakes waters from Washington State to the Florida Keys, and from Lake Huron to American Samoa. The network includes a system of 14 national marine sanctuaries and Papahānaumokuākea and Rose Atoll marine national monuments. National marine sanctuaries protect our Nation's most vital coastal and marine natural and cultural resources, and through active research, management, and public engagement, sustain healthy environments that are the foundation for thriving communities and stable economies.

One of the many ways ONMS ensures public participation in the designation and management of national marine sanctuaries is through the formation of advisory councils. The Sanctuary System Business Advisory Council (council) has been formed to provide advice and recommendations to the Director regarding the relationship of ONMS with the business community. Additional information on the council can be found at *https://sanctuaries.noaa.gov/management/bac/.*

Matters to be discussed: The meeting will include updates from ONMS, election of council officers, and possible formation of working groups to address issues related to sustainable recreation and tourism in national marine sanctuaries. For a complete agenda, including times and topics, please visit *http://sanctuaries.noaa.gov/management/bac/meetings.html.*

Authority: 16 U.S.C. 1431, *et seq.*

John Armor,

Director, Office of National Marine Sanctuaries, National Ocean Service, National Oceanic and Atmospheric Administration.

[FR Doc. 2021–06764 Filed 4–1–21; 8:45 am]

BILLING CODE 3510–NK–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XA956]

Fisheries of the Gulf of Mexico and 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 SEDAR 68 Assessment Webinar IV for Gulf of Mexico and Atlantic scamp grouper.

SUMMARY: The SEDAR 68 assessment process of Gulf of Mexico and Atlantic scamp will consist of a series of data and assessment webinars, and a Review Workshop. See **SUPPLEMENTARY INFORMATION**.

DATES: The SEDAR 68 Assessment Webinar IV will be held April 19, 2021, from 10 a.m. to 1 p.m., Eastern Time.

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 Workshop, (2) a series of assessment webinars, and (3) A Review Workshop. The product of the Data Workshop is a report that compiles and evaluates potential datasets and recommends which datasets are appropriate for assessment analyses. The assessment webinars produce a report that describes the fisheries, evaluates the status of the stock, estimates biological benchmarks, projects future population conditions, and recommends research and monitoring needs. The product of the Review Workshop is an Assessment Summary documenting panel opinions regarding the strengths and weaknesses of the stock assessment and input data. 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 during the Assessment Webinar are as follows:

1. Using datasets and initial assessment analysis recommended from the data webinars, panelists will employ assessment models to evaluate stock status, estimate population benchmarks and management criteria, and project future conditions.

2. Participants will recommend the most appropriate methods and configurations for determining stock status and estimating population parameters.

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: March 30, 2021.

Tracey L. Thompson,

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

[FR Doc. 2021–06831 Filed 4–1–21; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID XA977]

Caribbean Fishery Management Council; Public Meetings

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

ACTION: Notice of public meetings.

SUMMARY: The Caribbean Fishery Management Council's (Council) District Advisory Panels (DAPs) will hold public virtual meetings to address the items contained in the tentative agenda included in the **SUPPLEMENTARY INFORMATION**.

DATES: The DAPs public virtual meetings will be held as follows: St. Thomas/St. John DAP, April 19, 2021, from 10 a.m. to 12 p.m.; St. Croix DAP, April 19, 2021, from 1 p.m. to 3 p.m.; Puerto Rico DAP, April 20, 2021, from 10 a.m. to 12 p.m. All meetings will be at Atlantic Standard Time (AST).

ADDRESSES: You may join the DAPs public virtual meetings (via Zoom) from a computer, tablet or smartphone by entering the following addresses:

DAP–STT/STJ

Join Zoom Meeting
https://us02web.zoom.us/j/86262657165?pwd=aGQ4U25rME92d1p1TWo4d3Y3RGFrdz09
Meeting ID: 862 6265 7165
Passcode: 901759
One tap mobile
+17879451488,,86262657165#,,,,*901759# Puerto Rico
+17879667727,,86262657165#,,,,*901759# Puerto Rico
Dial by your location
+1 787 945 1488 Puerto Rico
+1 787 966 7727 Puerto Rico
+1 939 945 0244 Puerto Rico
Meeting ID: 862 6265 7165
Passcode: 901759

DAP–PR

Join Zoom Meeting
https://us02web.zoom.us/j/86222659918?pwd=UitRcnBJRXQyMUpWaEtISEZ6elVvQT09
Meeting ID: 862 2265 9918
Passcode: 623876
One tap mobile
+19399450244,,86222659918#,,,,*623876# Puerto Rico
+17879451488,,86222659918#,,,,*623876# Puerto Rico
Dial by your location
+1 939 945 0244 Puerto Rico
+1 787 945 1488 Puerto Rico
+1 787 966 7727 Puerto Rico
Meeting ID: 862 2265 9918
Passcode: 623876

DAP–STX

Join Zoom Meeting
https://us02web.zoom.us/j/84523918830?pwd=ZWdleXVrN2VzRW5MdVdJOStBZVRNQT09
Meeting ID: 845 2391 8830
Passcode: 507957
One tap mobile
+17879451488,,84523918830#,,,,*507957# Puerto Rico
+17879667727,,84523918830#,,,,*507957# Puerto Rico
Dial by your location
+1 787 945 1488 Puerto Rico
+1 787 966 7727 Puerto Rico
+1 939 945 0244 Puerto Rico
Meeting ID: 845 2391 8830
Passcode: 507957

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 are:

—Call to Order
—Roll Call
—Adoption of Agenda
—Latest Draft of the Ecosystem Model
—Island-Based FMP Implementation and Possible Amendments
—Other Business

All three meetings will be discussing the same agenda items.

Other than the starting date and time the order of business may be adjusted as necessary to accommodate the completion of agenda items, at the discretion of the Chair. The meetings will begin on April 19, 2021 at 10 a.m. AST, and will end on April 20, 2021, at 12 p.m. AST.

Special Accommodations

Simultaneous interpretation will be provided for the DAP–PR, on April 20, 2021.

Se proveerá interpretación en español.

Para interpretación en español puede marcar el siguiente número para entrar a la reunión: US/Canadá: llame al +1–888–947–3988, cuando el sistema conteste, entrar el número 1*999996#.

For English interpretation you may dial the following number to enter the meeting: US/Canada: call +1–888–947–3988, when the system answers enter the number 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: March 30, 2021.

Tracey L. Thompson,

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

[FR Doc. 2021–06835 Filed 4–1–21; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XA991]

North Pacific Fishery Management Council; Public Meeting

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

ACTION: Notice of webconference.

SUMMARY: The North Pacific Fishery Management Council's (NPFMC) Ecosystem Committee will meet April 20, 2021.

DATES: The meeting will be held on Tuesday, April 20, 2021, from 9 a.m. to 12 p.m., Alaska time.

ADDRESSES: The meeting will be a webconference. Join online through the link at *https://meetings.npfmc.org/Meeting/Details/2004.*

Council address: North Pacific Fishery Management Council, 1007 W 3rd Ave., Anchorage, AK 99501–2252; telephone: (907) 271–2809. Instructions for attending the meeting are given under **SUPPLEMENTARY INFORMATION**, below.

FOR FURTHER INFORMATION CONTACT: Steve MacLean, Council staff; phone: (907) 271–2809 and email: *steve.maclean@noaa.gov.* For technical support please contact administrative Council staff, email: *npfmc.admin@noaa.gov.*

SUPPLEMENTARY INFORMATION:

Agenda

Tuesday, April 20, 2021

The Ecosystem Committee will discuss potential agenda items and develop a workplan for the committee. The agenda is subject to change, and the latest version will be posted at *https://meetings.npfmc.org/Meeting/Details/2004* prior to the meeting, along with meeting materials.

Connection Information

You can attend the meeting online using a computer, tablet, or smart phone; or by phone only. Connection information will be posted online at: *https://meetings.npfmc.org/Meeting/Details/2004.*

Public Comment

Public comment letters will be accepted and should be submitted electronically to *https://meetings.npfmc.org/Meeting/Details/2004.*

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

Dated: March 30, 2021.

Tracey L. Thompson,

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

[FR Doc. 2021–06838 Filed 4–1–21; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XA969]

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 a public meeting.

SUMMARY: The South Atlantic Fishery Management Council (Council) will convene a meeting of the Outreach and Communications Advisory Panel via webinar to address upcoming outreach and communications topics.

DATES: The Outreach and Communications Advisory Panel (AP) meeting will be held via webinar on Monday, April 19, 2021, from 1 p.m. until 5 p.m.

ADDRESSES:

Meeting address: 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/current-advisory-panel-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: Cameron Rhodes, Outreach Program Manager, SAFMC; phone: (843) 725–7577 or toll free: (866) SAFMC–10; fax: (843) 769–4520; email: *cameron.rhodes@safmc.net.*

SUPPLEMENTARY INFORMATION: The Outreach and Communications AP will meet to discuss the following agenda items:

SciFish Project update & demonstration of the mobile application for reporting, an update on the Council's Citizen Science Program, and a demonstration of the new Commercial Fish Rules regulations mobile application. The AP will also review a restructuring of the Council's newsletter and provide recommendations. The meeting will conclude with a review of updates from individual members and discussion of other business as needed.

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: March 30, 2021.

Tracey L. Thompson,

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

[FR Doc. 2021–06832 Filed 4–1–21; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XA989]

Western Pacific Fishery Management Council; Public Meetings

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

ACTION: Notice of public meetings.

SUMMARY: The Western Pacific Fishery Management Council (Council) will hold meetings of its Archipelagic Plan Team (APT) and the Data Collection Subpanel (DCSP) of the Fishery Data Collection and Research Committee—Technical Committee (FDCRC–TC) by web conference to discuss fishery management issues and develop recommendations for future management of fisheries in the Western Pacific Region.

DATES: The APT will be held on April 20–22, 2021. The DCSP will be held on April 28–29, 2021. For specific times and agendas, see **SUPPLEMENTARY INFORMATION**.

ADDRESSES: Audio and visual portions for Archipelagic Plan Team meeting can be accessed at: *https://wprfmc.webex.com/wprfmc/onstage/g.php?MTID=efc8f950c25af1314b2155355fb3dfd8b.* The FDCRC–TC DCSP meeting can be accessed at *https://wprfmc.webex.com/wprfmc/onstage/g.php?MTID=e7e2d2060c7fcebd7482b2885e98e0ffb.* Web conference access information and instructions for providing public comments will be posted on the Council website at *www.wpcouncil.org.* For assistance with the web conference connection, contact the Council office at (808) 552–8220.

FOR FURTHER INFORMATION CONTACT: Kitty M. Simonds, Executive Director, Western Pacific Fishery Management Council; phone: (808) 522–8220 (voice) or (808) 522–8226 (fax).

SUPPLEMENTARY INFORMATION: The APT meeting will be held on April 20–22, 2021, from 1 p.m. to 5 p.m. Hawaii Standard Time (HST) (noon to 4 p.m. Samoa Standard Time (SST); 9 a.m. to 1 p.m. on April 21–23, 2021, Chamorro Standard Time (ChST)). The FDCRC–TC DCSP meeting will be held on April 28–29, 2021, from 1 p.m. to 5 p.m. HST (noon to 4 p.m. SST; 9 a.m. to 1 p.m. on April 29–30, 2020 ChST). Opportunities to present oral public comment will be provided throughout the agendas. The order of the agenda may change, and will be announced in advance at the meetings. The meetings may run past the scheduled times noted above to complete scheduled business.

Agenda for the Archipelagic Plan Team Meeting

Tuesday, April 20, 2021, 1 p.m. to 5 p.m. HST (Noon–4 p.m. SST; Wednesday, April 21, 2021, 9 a.m.–1 p.m. ChST)

1. Welcome and introductions
2. Approval of draft agenda
3. Report on previous Plan Team recommendations and Council actions
4. Plan Team 101: Plan Team Direction
5. 2020 Annual Stock Assessment and Fishery Evaluation (SAFE) Report
   A. Fishery Performance
   1. Archipelagic fisheries modules
   a. American Samoa
   1. Bottomfish fishery
   2. Ecosystem component fisheries
   3. Fisherman's observations
   b. Guam
   1. Bottomfish fishery
   2. Ecosystem component fisheries
   3. Fisherman's observations
   c. Commonwealth of the Northern Mariana Islands (CNMI)
   1. Bottomfish fishery
   2. Ecosystem component fisheries
   3. Fisherman's observations
   d. Hawaii
   1. Bottomfish fishery
   2. Crustacean fishery
   3. Precious coral fishery
   4. Ecosystem component fisheries
   5. Non-commercial fisheries
   6. Fisherman's observations
   2. Analytical considerations in generating the 2020 fishery dependent estimates
   3. Discussions
   4. Public Comment

Wednesday, April 21, 2021, 1 p.m. to 5 p.m. HST (Noon–4 p.m. SST; Thursday, April 22, 2021, 9 a.m.–1 p.m. ChST)

   B. Ecosystem considerations
   1. Protected species section
   2. Climate, ecosystems and biological section
   a. Environmental & climate variables
   b. Life history and length-derived variables
   c. Biomass estimates for Coral Reef Ecosystem Components
   3. Habitat section
   4. Socioeconomics section
   5. Marine Planning section
   6. Discussions
   7. Public comment
   C. Administrative reports
   1. Number of federal permits and catch reports
   2. Regulatory actions in 2020
   3. Discussions
   4. Public comment

Thursday, April 22, 2021, 1 p.m. to 5 p.m. HST (Noon–4 p.m. SST; Friday, April 23, 2021, 9 a.m.–1 p.m. ChST)

6. Action items
   A. Changes to the Territorial Bottomfish Management Unit Species (BMUS)
   B. Feasibility of a Marianas archipelago-wide assessment for BMUS
   C. Management of the non-commercial and commercial uku fishery
   D. Main Hawaiian island deep 7 Annual Catch Limit specification
7. Integration of the 'CatchIt LogIt' app information into fisheries assessments and monitoring
8. Hawaii fisheries management issues
9. Standardized Bycatch Reporting Methodology
10. Discussions
11. Public comment
13. Fishery Ecosystem Plan Team recommendations
14. Other business

Agenda for the Fishery Data Collection and Research Committee—Technical Committee: Data Collection Subpanel

Wednesday, April 28, 2021, 1 p.m. to 5 p.m. HST (Noon–4 p.m. SST; Thursday, April 29, 2021, 9 a.m.–1 p.m. ChST)

1. Welcome and introductions
2. Approval of draft agenda
3. Report on previous FDCRC–TC recommendations and Council actions
4. Overview of the strategic planning session
5. Report on the previous strategic plan
   A. Accomplishments and failures
   B. Issues and challenges
6. Report on the individual territory strategic plan consultations
   A. American Samoa
   B. Guam
   C. CNMI
   D. Hawaii
   1. Commercial fishery
   2. Non-commercial fishery
7. Implementation roles and responsibilities
8. Timeline and prioritization
9. Performance monitoring and reporting
10. Discussions
11. Public comment

Thursday, April 29, 2021, 1 p.m.–5 p.m. HST (Noon–4 p.m. SST; Friday, April 30, 2021, 9 a.m.–1 p.m. ChST)

12. Report on data collection improvement initiatives
   A. CatchIt LogIt implementation
   B. Mandatory license and reporting implementation
   C. Hawaii commercial fisheries reporting
   D. Status of Hawaii Marine Recreational Fishing Survey certification
13. FDCRC–TC work items
   A. Integration of the Data Collection Systems
   B. Improving Bycatch Monitoring
   C. Enhanced Spatial Accounting of Catch
14. Discussions
15. Other business
16. Public comment
17. FDCRC–TC–DCSP recommendations

Special Accommodations

These meetings are accessible to people with disabilities. Please direct requests for sign language interpretation or other auxiliary aids to Kitty M. Simonds (see **FOR FURTHER INFORMATION CONTACT** above) at least 5 days prior to the meeting date.

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

Dated: March 30, 2021.

Tracey L. Thompson,

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

[FR Doc. 2021–06837 Filed 4–1–21; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XA988]

Mid-Atlantic Fishery Management Council (MAFMC); Public Meeting

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

ACTION: Notice; public meeting.

SUMMARY: The Mackerel, Squid, and Butterfish (MSB) Advisory Panel of the Mid-Atlantic Fishery Management Council (Council) will hold a meeting.

DATES: The meeting will be held on Tuesday, April 20, 2021, from 1 p.m. to

5 p.m. For agenda details, see **SUPPLEMENTARY INFORMATION.**

ADDRESSES: The meeting will be held via internet webinar. See the Council's website calendar at *www.mafmc.org,* for details.

Council address: Mid-Atlantic Fishery Management Council, 800 N. State Street, Suite 201, Dover, DE 19901; telephone: (302) 674–2331 or on their website at *www.mafmc.org.*

FOR FURTHER INFORMATION CONTACT: Christopher M. Moore, Ph.D., Executive Director, Mid-Atlantic Fishery Management Council, telephone: (302) 526–5255.

SUPPLEMENTARY INFORMATION: The purposes of the meeting are to: (1) Gather Advisory Panel input related to MSB specifications and management measures, (2) create Fishery Performance Reports for *Illex* squid, longfin squid, and butterfish, and (3) provide input on an *industry perspectives document* for the ongoing butterfish research track assessment.

Special Accommodations

The meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aid should be directed to Kathy Collins at (302) 526–5253, at least 5 days prior to any meeting date.

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

Dated: March 30, 2021.

Tracey L. Thompson,

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

[FR Doc. 2021–06836 Filed 4–1–21; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Agency Information Collection Activities; Submission to the Office of Management and Budget (OMB) for Review and Approval; Comment Request; an Observer Program for At-Sea Processing Vessels in the Pacific Coast Groundfish Fishery

The Department of Commerce will submit the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995, on or after the date of publication of this notice. We invite the general public and other Federal agencies to comment on proposed, and continuing information collections, which helps us assess the impact of our information collection requirements and minimize the public's reporting burden. Public comments were previously requested via the **Federal Register** on January 6, 2021 (86 FR 522), during a 60-day comment period. This notice allows for an additional 30 days for public comments.

Agency: National Oceanic & Atmospheric Administration (NOAA), Commerce.

Title: An Observer Program for At-Sea Processing Vessels in the Pacific Coast Groundfish Fishery.

OMB Control Number: 0648–0500.

Form Number(s): None.

Type of Request: Regular submission (extension of a current information collection).

Number of Respondents: 268 (5 providers (supplying a total of 75 observers or catch monitors) and 263 fishing vessels).

Average Hours per Response: For providers: 15 minutes for observer training/briefing/debriefing registration, notification of observer physical examination, observer status reports, other reports on observer harassment, safety concerns, or performance problems, catch monitor status reports, and other catch monitor reports on harassment, prohibited actions, illness or injury, or performance problems; 5 minutes for observer safety checklist submission to NMFS, observer provider contracts, observer information materials, catch monitor provider contracts, and catch monitor informational materials; 10 minutes for certificate of insurance; 7 minutes for catch monitor training/briefing registration, notification of catch monitor physical examination, and catch monitor debriefing registration. For vessels: 10 minutes for fishing departure reports and cease-fishing reports.

Total Annual Burden Hours: 621 hours.

Needs and Uses: In 2011, the National Marine Fisheries Service (NMFS) mandated observer requirements for the West Coast groundfish trawl catch shares program. For all fishery sectors, observers must be obtained through third-party observer provider companies operating under permits issued by NMFS. The regulations at §§ 660.140 (h), 660.150 (j), and 660.160 (g), specify observer coverage requirements for trawl vessels and define the responsibilities for observer providers, including reporting requirements. Regulations at § 660.140 (i) specify requirements for catch monitor coverage for first receivers. Data collected by observers are used by NMFS to estimate total landed catch and discards, monitor the attainment of annual groundfish allocations, estimate catch rates of prohibited species, and as a component in stock assessments. These data are necessary to comply with the Magnuson-Stevens Act requirements to prevent overfishing. In addition, observer data is used to assess fishing related mortality of protected and endangered species.

Affected Public: Business or other for-profit organizations.

Frequency: Reporting on occasion, weekly, or yearly.

Respondent's Obligation: Mandatory.

Legal Authority: Magnuson-Stevens Fishery Conservation and Management Act.

This information collection request may be viewed at *www.reginfo.gov.* Follow the instructions to view the Department of Commerce collections currently under review by OMB.

Written comments and recommendations for the proposed information collection should be submitted within 30 days of the publication of this notice on the following website *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function and entering either the title of the collection or the OMB Control Number 0648–0500.

Sheleen Dumas,

Department PRA Clearance Officer, Office of the Chief Information Officer, Commerce Department.

[FR Doc. 2021–06802 Filed 4–1–21; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XA974]

North Pacific Fishery Management Council; Public Meeting

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

ACTION: Notice of webconference.

SUMMARY: The North Pacific Fishery Management Council (Council) Partial Coverage Fishery Monitoring Advisory Committee (PCFMAC) will meet April 19, 2021.

DATES: The meeting will be held on Monday, April 19, 2021, from 8:30 a.m. to 1 p.m. Alaska Time.

ADDRESSES: The meeting will be a webconference. Join online through the

link at *https://meetings.npfmc.org/Meeting/Details/1986.*

Council address: North Pacific Fishery Management Council, 1007 W 3rd Ave., Anchorage, AK 99501–2252; telephone: (907) 271–2809. Instructions for attending the meeting are given under **SUPPLEMENTARY INFORMATION**, below.

FOR FURTHER INFORMATION CONTACT: Kate Haapala, Council staff; phone; (907) 271–2809 and email: *kate.haapala@noaa.gov.* For technical support please contact administrative Council staff, email: *npfmc.admin@noaa.gov.*

SUPPLEMENTARY INFORMATION:

Agenda

Monday, April 19, 2021

The April 2021 PCFMAC agenda will include: (a) Current or pending National Fish and Wildlife Foundation proposals; (b) prioritize Electronic Monitoring related projects; (c) cost efficiency updates for the partial coverage program; (d) public comment; and (e) other business. The agenda is subject to change, and the latest version will be posted at *https://meetings.npfmc.org/Meeting/Details/1986* prior to the meeting, along with meeting materials.

Connection Information

You can attend the meeting online using a computer, tablet, or smart phone; or by phone only. Connection information will be posted online at: *https://meetings.npfmc.org/Meeting/Details/1986.*

Public Comment

Public comment letters will be accepted and should be submitted electronically to *https://meetings.npfmc.org/Meeting/Details/1986.*

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

Dated: March 30, 2021.

Tracey L. Thompson,

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

[FR Doc. 2021–06833 Filed 4–1–21; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XA976]

South Atlantic Fishery Management Council; Public Meetings

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

ACTION: Notice of public meetings.

SUMMARY: The South Atlantic Fishery Management Council (Council) will hold a meeting of the Snapper Grouper Advisory Panel (AP) April 21–23, 2021.

DATES: The Snapper Grouper AP will meet from 1:30 p.m. to 4:30 p.m. on April 21; from 9 a.m. to 4 p.m. on April 22, and from 9 a.m. to 12 p.m. on April 23, 2021.

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.

The Snapper Grouper AP will discuss and provide recommendations on the following topics: Potential Council actions for yellowtail snapper and snowy grouper in response to recent or upcoming stock assessments; management actions considered for red porgy through Amendment 50 to the Snapper Grouper Fishery Management Plan (FMP); actions considered for greater amberjack through Snapper Grouper Amendment 49; possible approaches to reduce recreational discards; the South Atlantic Research and Monitoring Prioritization Plan for 2022–2027, and other topics as needed. In addition, the AP will provide information to develop a Fishery Performance Report for mutton snapper. The AP will also receive updates on Snapper Grouper Amendment 48 considering modernization of Wreckfish Individual Transferable Quota (ITQ) program and revised objectives for the Snapper Grouper FMP, ongoing and upcoming South Atlantic Southeast Data Assessment and Review (SEDAR) stock assessment projects, the Council's Citizen Science Program initiatives, and other items as needed.

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: March 30, 2021.

Tracey L. Thompson,

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

[FR Doc. 2021–06834 Filed 4–1–21; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Telecommunications and Information Administration

Agency Information Collection Activities; Submission to the Office of Management and Budget (OMB) for Review and Approval; Comment Request; 911 Grant Program Performance Closeout Report

AGENCY: National Telecommunications and Information Administration (NTIA), Department of Commerce (DOC).

ACTION: Notice of information collection, request for comment.

SUMMARY: The Department of Commerce, in accordance with the Paperwork Reduction Act of 1995 (PRA), invites the general public and other Federal agencies to comment on proposed, and continuing information collections, which helps us assess the impact of our information collection requirements and minimize the public's reporting burden. The purpose of this notice is to allow for 60 days of public comment preceding submission of the collection to OMB.

DATES: To ensure consideration, comments regarding this proposed information collection must be received on or before June 1, 2021.

ADDRESSES: Interested parties are invited to submit written comments by email to *PRAcomments@doc.gov.* Please reference 911 Grant Program Closeout Report in the subject line of your comments. Do not submit Confidential Business Information or otherwise sensitive or protected information.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or specific questions related to collection activities should be directed to Yuki Miyamoto, Federal Program Officer, National Telecommunications and Information Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Room 4078, Washington, DC 20230, 202–657–9660, or via email at *ymiyamoto@ntia.gov.*

SUPPLEMENTARY INFORMATION:

I. Abstract

In 2012, the Next Generation 911 (NG911) Advancement Act of 2012 (Middle Class Tax Relief and Job Creation Act of 2012, Pub. L. 112–96,

Title VI, Subtitle E (codified at 47 U.S.C. 942)) enacted changes to this program. It reauthorized the 911 Implementation Coordination Office (ICO), a joint effort between NTIA and the National Highway Traffic Safety Administration (NHTSA). It delineated the responsibilities of the ICO to include a joint program to establish and facilitate coordination and communication between federal, state, and local emergency communications systems, emergency personnel, public safety organizations, telecommunications carriers, and telecommunications equipment manufacturers and vendors involved in the implementation of 911 services.

The NG911 Advancement Act provided funding for grants to be used for the implementation and operation of 911 services, E911 services, migration to an IP-enabled emergency network, and adoption and operation of NG911 services and applications; the implementation of IP-enabled emergency services and applications enabled by NG911 services, including the establishment of IP backbone networks and the application layer software infrastructure needed to interconnect the multitude of emergency response organizations; and training public safety personnel, including call-takers, first responders, and other individuals and organizations who are part of the emergency response chain in 911 services. In August 2019, NTIA and NHTSA made $109,250,000 in grant awards to 36 agencies.

The information collected for the closeout of this grant program will include various reporting requirements. The closeout performance report is a new collection instrument. All grantees will submit the closeout performance report, tangible property report and final financial report in accordance with 2 CFR part 200, the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (OMB Uniform Guidance). It is important for NHTSA and NTIA to have this information so that they can effectively administer the grant program and account for the expenditure of funds.

II. Method of Collection

Under this proposed effort, all grantees are required to submit required documentation electronically via email.

III. Data

OMB Control Number: 06XX–XXX.

Form Number: None.

Type of Review: New information collection.

Affected Public: Reporting entities are the 36 grantees, making the total maximum number of respondents 36.

Estimated Number of Respondents: 36.

Estimated Time per Response: 60 hours.

Estimated Total Annual Burden Hours: 2,160 hours.

Estimated Total Annual Cost to Public: $100,677.60.

Respondents' Obligation: Mandatory.

Legal Authority: 47 U.S.C. 942.

IV. Requests for Comments

We are soliciting public comments to permit the Department/Bureau to: (a) Evaluate whether the proposed information collection is necessary for the proper functions of the Department, including whether the information will have practical utility; (b) Evaluate the accuracy of our estimate of the time and cost burden for this proposed collection, including the validity of the methodology and assumptions used; (c) Evaluate ways to enhance the quality, utility, and clarity of the information to be collected; and (d) Minimize the reporting burden on those who are to respond, including the use of automated collection techniques or other forms of information technology.

Comments that you submit in response to this notice are a matter of public record. We will include or summarize each comment in our request to OMB to approve this ICR. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you may ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Sheleen Dumas,

Department PRA Clearance Officer, Office of the Chief Information Officer, Commerce Department.

[FR Doc. 2021–06769 Filed 4–1–21; 8:45 am]

BILLING CODE 3510–WL–P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List; Additions and Deletions

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Additions to and Deletions from the Procurement List.

SUMMARY: This action adds product(s) to the Procurement List that will be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities, and deletes product(s) from the Procurement List previously furnished by such agencies.

DATES: *Date added to and deleted from the Procurement List:* May 02, 2021.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, 1401 S Clark Street, Suite 715, Arlington, Virginia 22202–4149.

FOR FURTHER INFORMATION CONTACT: Michael R. Jurkowski, Telephone: (703) 603–2117, Fax: (703) 603–0655, or email *CMTEFedReg@AbilityOne.gov.*

SUPPLEMENTARY INFORMATION:

Additions

On 11/27/2020, the Committee for Purchase From People Who Are Blind or Severely Disabled published notice of proposed additions to the Procurement List. This notice is published pursuant to 41 U.S.C. 8503 (a)(2) and 41 CFR 51–2.3.

After consideration of the material presented to it concerning capability of qualified nonprofit agencies to provide the product(s) and impact of the additions on the current or most recent contractors, the Committee has determined that the product(s) listed below are suitable for procurement by the Federal Government under 41 U.S.C. 8501–8506 and 41 CFR 51–2.4.

Regulatory Flexibility Act Certification

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the product(s) to the Government.

2. The action will result in authorizing small entities to furnish the product(s) to the Government.

3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 8501–8506) in connection with the product(s) proposed for addition to the Procurement List.

End of Certification

Accordingly, the following product(s) are added to the Procurement List:

Product(s)

NSN(s)—Product Name(s):

6505–01–420–9275—Rehydration Salts, Oral, Lemon, 50g
6505–01–562–3894—Rehydration Salts, Oral, Modified, Lemon, 10g
6505–01–491–7131—Rehydration Salts, Oral, Modified, Mixed Berry, 10g
6505–01–491–8351—Rehydration Salts, Oral, Modified, Citrus, 21g
6505–01–525–8930—Rehydration Salts, Oral, Modified, Fruit Punch, 21g
6505–01–575–8540—Rehydration Salts, Oral, Orange, 12.5g
6505–01–575–8568—Rehydration Salts, Oral, Lime, 12.5g
6505–01–575–8578—Rehydration Salts, Oral, Pomegranate Acai Blueberry, 12.5g

Designated Source of Supply: Alphapointe, Kansas City, MO

Contracting Activity: DEFENSE LOGISTICS AGENCY, DLA TROOP SUPPORT

Deletions

On 2/26/2021, the Committee for Purchase From People Who Are Blind or Severely Disabled published notice of proposed deletions from the Procurement List. This notice is published pursuant to 41 U.S.C. 8503 (a)(2) and 41 CFR 51–2.3.

After consideration of the relevant matter presented, the Committee has determined that the product(s) listed below are no longer suitable for procurement by the Federal Government under 41 U.S.C. 8501–8506 and 41 CFR 51–2.4.

Regulatory Flexibility Act Certification

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in additional reporting, recordkeeping or other compliance requirements for small entities.
2. The action may result in authorizing small entities to furnish the product(s) to the Government.
3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 8501–8506) in connection with the product(s) deleted from the Procurement List.

End of Certification

Accordingly, the following product(s) are deleted from the Procurement List:

Product(s)

NSN(s)—Product Name(s):

8415–01–524–5957—Cover, PASGT Helmet, Universal Camouflage, XS/S
8415–01–524–6027—Cover, PASGT Helmet, Universal Camouflage, M/L
8415–01–524–6028—Cover, PASGT Helmet, Universal Camouflage, XL

Designated Source of Supply: Lions Services, Inc., Charlotte, NC; Industries of the Blind, Inc., Greensboro, NC; Mount Rogers Community Services Board, Wytheville, VA; Lions Volunteer Blind Industries, Inc., Morristown, TN

Contracting Activity: DLA TROOP SUPPORT, PHILADELPHIA, PA W6QK ACC–APG NATICK, NATICK, MA

NSN(s)—Product Name(s):

6645–01–421–6898—Clock, Wall, Slimline, Taupe, 12–3/4'' Diameter, Quartz
6645–01–421–6901—Clock, Wall, Slimline, Stone Gray, 12 3/4'' Quartz
6645–01–421–6906—Clock, Wall, Walnut, 16'' Quartz
6645–01–456–6022—Clock, Wall, Slimline, Stone Gray, Custom Logo, 12 3/4'' Quartz
6645–01–456–6023—Clock, Wall, Walnut, Custom Logo, 16'' Quartz
6645–01–456–6024—Clock, Wall, Slimline, Taupe, Custom Logo, 12 3/4'' Quartz
6645–01–491–9807—Clock, Wall, Atomic, Bronze, 12 3/4'' Diameter
6645–01–491–9808—Clock, Wall, Atomic, Bronze, 9 1/4'' Diameter
6645–01–491–9829—Clock, Wall, 12/24 Hour, Atomic, Bronze, 9 1/4'' Diameter
6645–01–491–9831—Clock, Wall, Atomic, Black, Custom Logo, 9 1/4'' Diameter
6645–01–492–0377—Clock, Wall, Atomic, Walnut, 16'' Diameter

Designated Source of Supply: Chicago Lighthouse Industries, Chicago, IL

Contracting Activity: GSA/FAS ADMIN SVCS ACQUISITION BR(2, NEW YORK, NY

NSN(s)—Product Name(s):

8415–01–465–4629—Pants, Physical Fitness Uniform, Army, Black, Large/Regular
8415–01–465–4635—Pants, Physical Fitness Uniform, Army, Black, X-Large/Regular
8415–01–465–4636—Pants, Physical Fitness Uniform, Army, Black, XX-Large/Regular
8415–01–465–4638—Pants, Physical Fitness Uniform, Army, Black, XXX-Large/Regular
8415–01–465–4639—Pants, Physical Fitness Uniform, Army, Black, X-Small/Long
8415–01–465–4640—Pants, Physical Fitness Uniform, Army, Black, Small/Long
8415–01–465–4641—Pants, Physical Fitness Uniform, Army, Black, Medium/Long
8415–01–465–4645—Pants, Physical Fitness Uniform, Army, Black, Large/Long
8415–01–465–4647—Pants, Physical Fitness Uniform, Army, Black, X-Large/Long
8415–01–465–4648—Pants, Physical Fitness Uniform, Army, Black, XX-Large/Long
8415–01–465–4652—Pants, Physical Fitness Uniform, Army, Black, XXX-Large/Long
8415–01–465–4860—Pants, Physical Fitness Uniform, Army, Black, X-Small/Short
8415–01–465–4862—Pants, Physical Fitness Uniform, Army, Black, Small/Short
8415–01–465–4864—Pants, Physical Fitness Uniform, Army, Black, Medium/Short
8415–01–465–4865—Pants, Physical Fitness Uniform, Army, Black, Large/Short
8415–01–465–4866—Pants, Physical Fitness Uniform, Army, Black, X-Large/Short
8415–01–465–4867—Pants, Physical Fitness Uniform, Army, Black, XX-Large/Short
8415–01–465–4869—Pants, Physical Fitness Uniform, Army, Black, XXX-Large/Short
8415–01–465–4871—Pants, Physical Fitness Uniform, Army, Black, X-Small/Regular
8415–01–465–4872—Pants, Physical Fitness Uniform, Army, Black, Small/Regular
8415–01–465–4878—Pants, Physical Fitness Uniform, Army, Black, Medium/Regular

Designated Source of Supply: Alphapointe, Kansas City, MO; Georgia Industries for the Blind, Bainbridge, GA; Lions Services, Inc., Charlotte, NC; Industries of the Blind, Inc., Greensboro, NC; Lions Volunteer Blind Industries, Inc., Morristown, TN; San Antonio Lighthouse for the Blind, San Antonio, TX; LC Industries, Inc., Durham, NC; Asso. for the Blind and Visually Impaired-Goodwill Industries of Greater Rochester, Inc., Rochester, NY

Contracting Activity: DLA TROOP SUPPORT, PHILADELPHIA, PA

Michael R. Jurkowski,

Deputy Director, Business & PL Operations.

[FR Doc. 2021–06816 Filed 4–1–21; 8:45 am]

BILLING CODE 6353–01–P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List; Proposed Deletions

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Proposed deletions from the Procurement List.

SUMMARY: The Committee is proposing to delete service(s) from the Procurement List that were furnished by nonprofit agencies employing persons who are blind or have other severe disabilities.

DATES: *Comments must be received on or before:* May 2, 2021.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, 1401 S Clark Street, Suite 715, Arlington, Virginia 22202–4149.

FOR FURTHER INFORMATION CONTACT: For further information or to submit comments contact: Michael R. Jurkowski, Telephone: (703) 603–2117,

Fax: (703) 603–0655, or email *CMTEFedReg@AbilityOne.gov.*

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 8503 (a)(2) and 41 CFR 51–2.3. Its purpose is to provide interested persons an opportunity to submit comments on the proposed actions.

Deletions

The following service(s) are proposed for deletion from the Procurement List:

Service(s)

Service Type: Janitorial Services
Mandatory for: FAA, Federal Facilities Building, Cleveland-Hopkins International Airport, Cleveland, OH
Designated Source of Supply: Murray Ridge Production Center, Inc., Elyria, OH
Contracting Activity: FEDERAL AVIATION ADMINISTRATION, 697DCK REGIONAL ACQUISITIONS SVCS

Michael R. Jurkowski,

Deputy Director, Business & PL Operations.

[FR Doc. 2021–06815 Filed 4–1–21; 8:45 am]

BILLING CODE 6353–01–P

DEPARTMENT OF DEFENSE

Department of the Army

Notice of Intended Disinterment

AGENCY: Department of the Army, DoD.

ACTION: Notice of intended disinterment.

SUMMARY: The Office of Army Cemeteries (OAC) is honoring the requests of the Rosebud Sioux family members and an Aleut family member to disinter the human remains of 10 Native American students from the Carlisle Barracks Post Cemetery, Carlisle, Pennsylvania. The decedent names are: Sophia Tetoff from the Alaskan Aleut; and from the Rosebud Sioux: Lucy Take the Tail (Pretty Eagle); Rose Long Face (Little Hawk); Ernest Knocks Off (White Thunder); Dennis Strikes First (Blue Tomahawk); Maud Little Girl (Swift Bear); Friend Hollow Horn Bear; Warren Painter (Bear Paints Dirt); Alvan (Kills Seven Horses); Dora Her Pipe (Brave Bull). These students died between 1880 and 1910 while attending the Carlisle Indian Industrial School. At the request of the closest living relative for each decedent, OAC will disinter and facilitate the transport and reinterment of the remains in private cemeteries chosen by the families at government expense. This disinterment will be conducted in accordance with Army Regulation 290–5. This is not a Native American Graves Protection and Repatriation Act (NAGPRA) action because the remains are not part of a collection. They are interred in graves that are individually marked at the Carlisle Barracks Post Cemetery.

DATES: The disinterment is scheduled to begin on June 14, 2021. Transportation to and re-interment in private cemeteries will take place as soon as practical after the disinterment. If other living relatives object to the disinterment of these remains, please provide written objection to Lieutenant Colonel Scott Tasler or Captain Jason Netteler at the email addresses listed below prior to May 1st, 2021. Such objections may delay the disinterment for the decedent in question.

ADDRESSES: Objections from family members and public comments can be mailed to Lieutenant Colonel Scott Tasler or Captain Jason Netteler, OAC Project Managers, 1 Memorial Avenue, Arlington, VA 22211 or emailed to *usarmy.pentagon.hqda-anmc.mbx.accountability-coe@mail.mil* (preferred).

FOR FURTHER INFORMATION CONTACT: Lieutenant Colonel Scott Tasler or Captain Jason Netteler OAC Project Managers at the email address listed above.

SUPPLEMENTARY INFORMATION: Additional information related to Native Americans buried at the Carlisle Barracks Post Cemetery can be found at *https://armycemeteries.army.mil/Cemeteries/Carlisle-Barracks-Main-Post-Cemetery*.

James W. Satterwhite Jr.,

Army Federal Register Liaison Officer.

[FR Doc. 2021–06784 Filed 4–1–21; 8:45 am]

BILLING CODE 5001–03–P

DEPARTMENT OF EDUCATION

[Docket No.: ED–2021–SCC–0055]

Agency Information Collection Activities; Comment Request; Gaining Early Awareness and Readiness for Undergraduate Programs (GEAR UP) Match Waiver Request Form

AGENCY: Office of Postsecondary Education (OPE), Department of Education (ED).

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, ED is requesting the Office of Management and Budget (OMB) to conduct an emergency review of new information collection.

DATES: The Department has requested emergency processing from OMB for this information collection request by April 15, 2021; and therefore, requests public comment on this emergency information collection by April 14, 2021. In addition, the regular clearance process is hereby being initiated to provide the public with the opportunity to comment under the full comment period. Interested persons are invited to submit comments on or before April 8, 2021.

ADDRESSES: To access and review all the documents related to the information collection listed in this notice, please use *http://www.regulations.gov* by searching the Docket ID number ED–2021–SCC–0055. Comments submitted in response to this notice should be submitted electronically through the Federal eRulemaking Portal at *http://www.regulations.gov* by selecting the Docket ID number or via postal mail, commercial delivery, or hand delivery. If the *regulations.gov* site is not available to the public for any reason, ED will temporarily accept comments at *ICDocketMgr@ed.gov.* Please include the docket ID number and the title of the information collection request when requesting documents or submitting comments. *Please note that comments submitted by fax or email and those submitted after the comment period will not be accepted.* Written requests for information or comments submitted by postal mail or delivery should be addressed to the PRA Coordinator of the Strategic Collections and Clearance Governance and Strategy Division, U.S. Department of Education, 400 Maryland Ave SW, LBJ, Room 208D, Washington, DC 20202–8240.

FOR FURTHER INFORMATION CONTACT: For specific questions related to collection activities, please contact Craig Pooler, 202–453–6195.

SUPPLEMENTARY INFORMATION: The Department of Education (ED), in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)), provides the general public and Federal agencies with an opportunity to comment on proposed, revised, and continuing collections of information. This helps the Department assess the impact of its information collection requirements and minimize the public's reporting burden. It also helps the public understand the Department's information collection requirements and provide the requested data in the desired format. ED is soliciting comments on the proposed information collection request (ICR) that is described below. The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the

Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology. Please note that written comments received in response to this notice will be considered public records.

Title of Collection: Gaining Early Awareness and Readiness for Undergraduate Programs (GEAR UP) Match Waiver Request Form.

OMB Control Number: 1840–NEW.

Type of Review: A new information collection.

Respondents/Affected Public: Private Sector; State, Local, and Tribal Governments.

Total Estimated Number of Annual Responses: 127.

Total Estimated Number of Annual Burden Hours: 64.

Abstract: The Department is requesting approval of a brief form that will collect information needed to determine GEAR UP grantees' eligibility for a waiver of the match requirement, as permitted under Section 3518(b) of the Coronavirus Aid, Relief, and Economic Security (CARES) Act. The Department has estimated 30 minutes of burden per respondent to provide this information.

Additional Information: Section 3518(b) of the CARES Act provides statutory authority for full match waivers. The proposed form will collect information needed to determine GEAR UP grantees' eligibility for a waiver of the match requirement. If this emergency collection is not approved, the Department will not be able to extend the match requirement flexibilities authorized by the CARES Act to GEAR UP grantees. Therefore, the Department is requesting approval no later than April 15, 2021 in order to implement this authority in a timely manner.

Lynn Mahaffie,

Assistant General Counsel, Division of Regulatory Services.

[FR Doc. 2021–06935 Filed 3–31–21; 4:15 pm]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP21–81–000]

Notice of Request Under Blanket Authorization and Establishing Intervention and Protest Deadline; Columbia Gas Transmission, LLC

Take notice that on March 17 2021, Columbia Gas Transmission, LLC (Columbia), 700 Louisiana Street, Suite 700, Houston, Texas 77002–2700, filed in the above referenced docket a prior notice pursuant to Section 157.205, 157.213 and 157.216 of the Federal Energy Regulatory Commission's regulations under the Natural Gas Act and the blanket certificate issued to Columbia by the Commission in Docket No. CP83–76–000,[1] seeking authorization to abandon twelve injection/withdrawal wells, convert two wells to observation status and abandon associated pipelines and appurtenances, located in its Lucas, Pavonia, and Weaver Storage Fields in Ashland, Richland and Knox Counties, West Virginia. Further, Columbia avers that the proposed abandonments will not affect any firm service to any existing customers, all as more fully set forth in the request 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 the Federal Energy Regulatory Commission at *FERCOnlineSupport@ferc.gov* or call toll-free, (886) 208–3676 or TYY, (202) 502–8659.

Any questions concerning this application should be directed to Sorana Linder, Director, Modernization & Certificates, Columbia Gas Transmission, LLC, 700 Louisiana Street, Suite 1300, Houston, Texas 77002–2700, by telephone (832) 320–5209, or by email at *sorana_linder@tcenergy.com.*

Public Participation

There are three ways to become involved in the Commission's review of this project: you can file a protest to the project, you can file a motion to intervene in the proceeding, and you can file comments on the project. There is no fee or cost for filing protests, motions to intervene, or comments. The deadline for filing protests, motions to intervene, and comments is 5:00 p.m. Eastern Time on May 28, 2021. How to file protests, motions to intervene, and comments is explained below.

Protests

Pursuant to section 157.205 of the Commission's regulations under the NGA,[2] any person[3] or the Commission's staff may file a protest to the request. If no protest is filed within the time allowed or if a protest is filed and then withdrawn within 30 days after the allowed time for filing a protest, 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 for authorization will be considered by the Commission.

Protests must comply with the requirements specified in section 157.205(e) of the Commission's regulations,[4] and must be submitted by the protest deadline, which is May 28, 2021. A protest may also serve as a motion to intervene so long as the protestor states it also seeks to be an intervenor.

Interventions

Any person has the option to file a motion to intervene in this proceeding. Only intervenors have the right to request rehearing of Commission orders issued in this proceeding and to subsequently challenge the Commission's orders in the U.S. Circuit Courts of Appeal.

To intervene, you must submit a motion to intervene to the Commission in accordance with Rule 214 of the Commission's Rules of Practice and Procedure[5] and the regulations under the NGA[6] by the intervention deadline

[1] *Columbia Gas Transmission Corporation* (predecessor to Columbia Gas Transmission, LLC), 22 FERC ¶ 62,029 (1983).

[2] 18 CFR 157.205.

[3] Persons include individuals, organizations, businesses, municipalities, and other entities. 18 CFR 385.102(d).

[4] 18 CFR 157.205(e).

[5] 18 CFR 385.214.

[6] 18 CFR 157.10.

for the project, which is May 28, 2021. As described further in Rule 214, your motion to intervene must state, to the extent known, your position regarding the proceeding, as well as your interest in the proceeding. For an individual, this could include your status as a landowner, ratepayer, resident of an impacted community, or recreationist. You do not need to have property directly impacted by the project in order to intervene. For more information about motions to intervene, refer to the FERC website at *https://www.ferc.gov/resources/guides/how-to/intervene.asp.*

All timely, unopposed motions to intervene are automatically granted by operation of Rule 214(c)(1). Motions to intervene that are filed after the intervention deadline are untimely and may be denied. Any late-filed motion to intervene must show good cause for being late and must explain why the time limitation should be waived and provide justification by reference to factors set forth in Rule 214(d) of the Commission's Rules and Regulations. A person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies (paper or electronic) of all documents filed by the applicant and by all other parties.

Comments

Any person wishing to comment on the project may do so. The Commission considers all comments received about the project in determining the appropriate action to be taken. To ensure that your comments are timely and properly recorded, please submit your comments on or before May 28, 2021. The filing of a comment alone will not serve to make the filer a party to the proceeding. To become a party, you must intervene in the proceeding.

How to File Protests, Interventions, and Comments

There are two ways to submit protests, motions to intervene, and comments. In both instances, please reference the Project docket number CP21–81–000 in your submission.

(1) You may file your protest, motion to intervene, and comments by using the Commission's eFiling feature, which is located on the Commission's website (*www.ferc.gov)* under the link to Documents and Filings. New eFiling users must first create an account by clicking on ''eRegister.'' You will be asked to select the type of filing you are making; first select General'' and then select ''Protest'', ''Intervention'', or ''Comment on a Filing''; or [7]

(2) You can file a paper copy of your submission by mailing it to the address below.[8] Your submission must reference the Project docket number CP21–81–000.

Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426

The Commission encourages electronic filing of submissions (option 1 above) and has eFiling staff available to assist you at (202) 502–8258 or *FercOnlineSupport@ferc.gov.*

Protests and motions to intervene must be served on the applicant either by mail or email (with a link to the document) at: *sorana_linder@tcenergy.com* or 700 Louisiana Street, Suite 700, Houston, Texas 77002–2700. Any subsequent submissions by an intervenor must be served on the applicant and all other parties to the proceeding. Contact information for parties can be downloaded from the service list at the eService link on FERC Online.

Tracking the Proceeding

Throughout the proceeding, additional information about the project will be available from the Commission's Office of External Affairs, at (866) 208–FERC, or on the FERC website at *www.ferc.gov* using the ''eLibrary'' link as described above. The eLibrary link also provides access to the texts of all formal documents issued by the Commission, such as orders, notices, and rulemakings.

In addition, the Commission offers a free service called eSubscription which allows you to keep track of all formal issuances and submittals in specific dockets. This can reduce the amount of time you spend researching proceedings by automatically providing you with notification of these filings, document summaries, and direct links to the documents. For more information and to register, go to *www.ferc.gov/docs-filing/esubscription.asp.*

[7] Additionally, you may file your comments electronically by using the eComment feature, which is located on the Commission's website at *www.ferc.gov* under the link to Documents and Filings. Using eComment is an easy method for interested persons to submit brief, text-only comments on a project.

[8] Hand-delivered submissions in docketed proceedings should be delivered to Health and Human Services, 12225 Wilkins Avenue, Rockville, Maryland 20852.

Dated: March 29, 2021.

Kimberly D. Bose,

Secretary.

[FR Doc. 2021–06848 Filed 4–1–21; 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: RP21–467–001.
Applicants: Alliance Pipeline L.P.
Description: Compliance filing Future Sales of Capacity Compliance Filing to be effective 3/11/2021.
Filed Date: 3/25/21.
Accession Number: 20210325–5044.
Comments Due: 5 p.m. ET 4/6/21.

Docket Numbers: RP21–647–000.
Applicants: Northern Natural Gas Company.
Description: § 4(d) Rate Filing: 20210325 Miscellaneous Filing to be effective 4/25/2021.
Filed Date: 3/25/21.
Accession Number: 20210325–5078.
Comments Due: 5 p.m. ET 4/6/21.

Docket Numbers: RP21–648–000.
Applicants: Texas Eastern Transmission, LP.
Description: Compliance filing TETLP OFO March 2021 Penalty Disbursement Report.
Filed Date: 3/25/21.
Accession Number: 20210325–5085.
Comments Due: 5 p.m. ET 4/6/21.

Docket Numbers: RP21–649–000.
Applicants: Trailblazer Pipeline Company LLC.
Description: Compliance filing TPC 2021–03–25 2020 Annual Purchases and Sales Report.
Filed Date: 3/25/21.
Accession Number: 20210325–5101.
Comments Due: 5 p.m. ET 4/6/21.

Docket Numbers: RP21–650–000.
Applicants: Rockies Express Pipeline LLC.
Description: Compliance filing REX 2021–03–25 2020 Annual Purchases and Sales Report.
Filed Date: 3/25/21.
Accession Number: 20210325–5102.
Comments Due: 5 p.m. ET 4/6/21.

Docket Numbers: RP21–651–000.
Applicants: Natural Gas Pipeline Company of America.
Description: Compliance filing Penalty Revenue Crediting Report from July through December 2020.
Filed Date: 3/25/21.

Accession Number: 20210325–5123.
Comments Due: 5 p.m. ET 4/6/21.

Docket Numbers: RP21–652–000.
Applicants: Horizon Pipeline Company, L.L.C.
Description: Compliance filing Horizon Penalty Revenue Crediting Report for Year 2020.
Filed Date: 3/25/21.
Accession Number: 20210325–5125.
Comments Due: 5 p.m. ET 4/6/21.

Docket Numbers: RP21–653–000.
Applicants: Ovintiv Marketing Inc., Kiwetinohk Marketing US Corp.
Description: Joint Petition For Temporary Waiver of Capacity Release Regulations, et al. of Ovintiv Marketing Inc., et al.
Filed Date: 3/25/21.
Accession Number: 20210325–5128.
Comments Due: 5 p.m. ET 4/6/21.

Docket Numbers: RP21–654–000.
Applicants: Leaf River Energy Center LLC.
Description: § 4(d) Rate Filing: Leaf River Non-conforming agreement filing to be effective 4/1/2021.
Filed Date: 3/25/21.
Accession Number: 20210325–5143.
Comments Due: 5 p.m. ET 4/6/21.

Docket Numbers: RP21–655–000.
Applicants: Enable Gas Transmission, LLC.
Description: § 4(d) Rate Filing: Fuel Tracker Filing—Effective May 1 2021 to be effective 5/1/2021.
Filed Date: 3/25/21.
Accession Number: 20210325–5146.
Comments Due: 5 p.m. ET 4/6/21.

Docket Numbers: RP21–656–000.
Applicants: Gulf South Pipeline Company, LLC.
Description: § 4(d) Rate Filing: Amendment to NC Neg Rate Agmt (Entergy 48769) to be effective 4/1/2021.
Filed Date: 3/26/21.
Accession Number: 20210326–5011.
Comments Due: 5 p.m. ET 4/7/21.

Docket Numbers: RP21–657–000.
Applicants: Rover Pipeline LLC.
Description: Compliance filing Flow Through of Cash-Out and Penalty Revenues filed on 3–26–21.
Filed Date: 3/26/21.
Accession Number: 20210326–5010.
Comments Due: 5 p.m. ET 4/7/21.

Docket Numbers: RP21–658–000.
Applicants: Fortigen Geneva LLC,NE Nitro Geneva LLC.
Description: Joint Petition For Temporary Waiver of Capacity Release Regulations, et al. of Fortigen Geneva LLC, et al.
Filed Date: 3/26/21.
Accession Number: 20210326–5193.
Comments Due: 5 p.m. ET 4/2/21.

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: March 29, 2021.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2021–06818 Filed 4–1–21; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

Take notice that the Commission received the following exempt wholesale generator filings:

Docket Numbers: EG21–117–000.
Applicants: Azure Sky Solar Project, LLC.
Description: Notice of Self-Certification of Exempt Wholesale Generator Status of Azure Sky Solar Project, LLC.
Filed Date: 3/18/21.
Accession Number: 20210318–5292.
Comments Due: 5 p.m. ET 4/8/21.

Docket Numbers: EG21–118–000.
Applicants: Sky River Wind, LLC.
Description: Notice of Self-Certification of Exempt Wholesale Generator Status of Sky River Wind, LLC.
Filed Date: 3/25/21.
Accession Number: 20210325–5243.
Comments Due: 5 p.m. ET 4/15/21.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER19–2507–003; ER13–1793–015; ER12–1260–016.
Applicants: Convergent Energy and Power LP, Hazle Spindle, LLC, Stephentown Spindle, LLC.
Description: Supplement to July 30, 2020 Notice of Change in Status of the Convergent MBR Sellers.
Filed Date: 3/25/21.
Accession Number: 20210325–5249.
Comments Due: 5 p.m. ET 4/15/21.

Docket Numbers: ER21–1020–001.
Applicants: Midcontinent Independent System Operator, Inc., ALLETE, Inc.
Description: Tariff Amendment: 2021–03–26_Amendment to ALLETE Depreciation Rate Filing to be effective 1/1/2020.
Filed Date: 3/26/21.
Accession Number: 20210326–5111.
Comments Due: 5 p.m. ET 4/16/21.

Docket Numbers: ER21–1519–000.
Applicants: Cool Springs Solar, LLC.
Description: Baseline eTariff Filing: Cool Springs Solar, LLC Application for MBR Authority to be effective 5/25/2021.
Filed Date: 3/25/21.
Accession Number: 20210325–5185.
Comments Due: 5 p.m. ET 4/15/21.

Docket Numbers: ER21–1520–000.
Applicants: PJM Interconnection, L.L.C.
Description: § 205(d) Rate Filing: Amendment to ISA, Service Agreement No. 4518; Queue No. W4–005 to be effective 6/30/2017.
Filed Date: 3/26/21.
Accession Number: 20210326–5009.
Comments Due: 5 p.m. ET 4/16/21.

Docket Numbers: ER21–1521–000.
Applicants: Southern California Edison Company.
Description: § 205(d) Rate Filing: SCE's Revision to Formula Rate Tariff Authorized 2021 PBOPs Expense Amount to be effective 1/1/2021.
Filed Date: 3/26/21.
Accession Number: 20210326–5012.
Comments Due: 5 p.m. ET 4/16/21.

Docket Numbers: ER21–1522–000.
Applicants: Midcontinent Independent System Operator, Inc., ALLETE, Inc.
Description: § 205(d) Rate Filing: 2021–03–26_SA 3640 and 3641 MP–GRE Riverton Agreements of Sale to be effective 3/27/2021.
Filed Date: 3/26/21.
Accession Number: 20210326–5016.
Comments Due: 5 p.m. ET 4/16/21.

Docket Numbers: ER21–1523–000.
Applicants: PJM Interconnection, L.L.C.
Description: Tariff Cancellation: Notice of Cancellation of WMPA, Service Agreement No. 4699; Queue No. AB1–065 to be effective 11/20/2020.
Filed Date: 3/26/21.
Accession Number: 20210326–5018.
Comments Due: 5 p.m. ET 4/16/21.

Docket Numbers: ER21–1524–000.
Applicants: Florida Power & Light Company.

Description: § 205(d) Rate Filing: FPL and OUC Service Agreement for Firm Point-To-Point Transmission Service to be effective 6/1/2021.

Filed Date: 3/26/21.

Accession Number: 20210326–5019.

Comments Due: 5 p.m. ET 4/16/21.

Docket Numbers: ER21–1525–000.

Applicants: Centerfield Cooper Solar, LLC.

Description: Baseline eTariff Filing: Reactive Power Compensation Filing to be effective 3/27/2021.

Filed Date: 3/26/21.

Accession Number: 20210326–5028.

Comments Due: 5 p.m. ET 4/16/21.

Docket Numbers: ER21–1526–000.

Applicants: Southern California Edison Company.

Description: § 205(d) Rate Filing: 2021 TACBAA Update to be effective 6/1/2021.

Filed Date: 3/26/21.

Accession Number: 20210326–5060.

Comments Due: 5 p.m. ET 4/16/21.

Docket Numbers: ER21–1527–000.

Applicants: Tri-State Generation and Transmission Association, Inc.

Description: Tariff Cancellation: Notice of Cancellation of Rate Schedule FERC No. 99 to be effective 3/27/2021.

Filed Date: 3/26/21.

Accession Number: 20210326–5068.

Comments Due: 5 p.m. ET 4/16/21.

Docket Numbers: ER21–1528–000.

Applicants: Midcontinent Independent System Operator, Inc., Duke Energy Indiana, LLC.

Description: § 205(d) Rate Filing: 2021–03–26_SA 3646 DEI-Hardy Hills E&P (J1063) to be effective 3/27/2021.

Filed Date: 3/26/21.

Accession Number: 20210326–5090.

Comments Due: 5 p.m. ET 4/16/21.

Docket Numbers: ER21–1529–000.

Applicants: New York Independent System Operator, Inc., Niagara Mohawk Power Corporation.

Description: § 205(d) Rate Filing: Joint 205 SGIA among NYISO, NMPC and Tayandenega Solar SA 2600 to be effective 3/3/2021.

Filed Date: 3/26/21.

Accession Number: 20210326–5099.

Comments Due: 5 p.m. ET 4/16/21.

Docket Numbers: ER21–1530–000.

Applicants: PECO Energy Company, PJM Interconnection, L.L.C.

Description: § 205(d) Rate Filing: PECO submits Revisions to Att. H–7A re: Depreciation and Amortization Rate to be effective 5/28/2021.

Filed Date: 3/26/21.

Accession Number: 20210326–5104.

Comments Due: 5 p.m. ET 4/16/21.

Docket Numbers: ER21–1531–000.

Applicants: Pacific Gas and Electric Company.

Description: § 205(d) Rate Filing: Work Performance Agreement for CDWR Contra Costa-Tesla (TO SA 275) to be effective 5/28/2021.

Filed Date: 3/26/21.

Accession Number: 20210326–5118.

Comments Due: 5 p.m. ET 4/16/21.

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: March 26, 2021.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2021–06817 Filed 4–1–21; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP21–90–000]

Notice of Request Under Blanket Authorization and Establishing Intervention and Protest Deadline; Stingray Pipeline Company, L.L.C.

Take notice that on March 19, 2021, Stingray Pipeline Company, L.L.C. (Stingray), 1300 Main Street, Houston, Texas 77002, filed in the above reference docket a prior notice pursuant to sections 157.205 and 157.216 of the Commission's regulations under the Natural Gas Act (NGA) and its blanket certificate issued in Docket No. CP91–1505–000 for authorization to abandon in-place the approximately 11.24-mile, 24-inch-diameter WC 144 Lateral, which extends from West Cameron Block 148 to West Cameron Block 144, and related appurtenances, all located in federal waters, offshore Louisiana in the Gulf of Mexico. The WC 144 Lateral has been idled since 2016 and Stingray has no intention of flowing gas on the lateral. Additionally, on November 10, 2020, Stingray received approval from the Bureau of Safety and Environmental Enforcement to relinquish its right-of-way and abandon in-place the WC 144 Lateral, all as more fully set forth in the request 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 the Federal Energy Regulatory Commission at *FERCOnlineSupport@ferc.gov* or call toll-free, (886) 208–3676 or TYY, (202) 502–8659.

Any questions concerning this application should be directed to Blair Lichtenwalter, Senior Director of Certificates, Stingray Pipeline Company, L.L.C., 1300 Main Street, Houston, Texas 77002, by phone at (713) 989–2605, by fax at (713) 989–1205, or by email at *blair.lichtenwalter@energytransfer.com.*

Public Participation

There are three ways to become involved in the Commission's review of this project: You can file a protest to the project, you can file a motion to intervene in the proceeding, and you can file comments on the project. There is no fee or cost for filing protests, motions to intervene, or comments. The deadline for filing protests, motions to intervene, and comments is 5:00 p.m. Eastern Time on May 28, 2021. How to file protests, motions to intervene, and comments is explained below.

Protests

Pursuant to section 157.205 of the Commission's regulations under the NGA,[1] any person [2] or the Commission's staff may file a protest to the request. If no protest is filed within the time

[1] 18 CFR 157.205.

[2] Persons include individuals, organizations, businesses, municipalities, and other entities. 18 CFR 385.102(d).

allowed or if a protest is filed and then withdrawn within 30 days after the allowed time for filing a protest, 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 for authorization will be considered by the Commission.

Protests must comply with the requirements specified in section 157.205(e) of the Commission's regulations,[3] and must be submitted by the protest deadline, which is May 28, 2021. A protest may also serve as a motion to intervene so long as the protestor states it also seeks to be an intervenor.

Interventions

Any person has the option to file a motion to intervene in this proceeding. Only intervenors have the right to request rehearing of Commission orders issued in this proceeding and to subsequently challenge the Commission's orders in the U.S. Circuit Courts of Appeal.

To intervene, you must submit a motion to intervene to the Commission in accordance with Rule 214 of the Commission's Rules of Practice and Procedure [4] and the regulations under the NGA [5] by the intervention deadline for the project, which is May 28, 2021. As described further in Rule 214, your motion to intervene must state, to the extent known, your position regarding the proceeding, as well as your interest in the proceeding. For an individual, this could include your status as a landowner, ratepayer, resident of an impacted community, or recreationist. You do not need to have property directly impacted by the project in order to intervene. For more information about motions to intervene, refer to the FERC website at *https://www.ferc.gov/resources/guides/how-to/intervene.asp.*

All timely, unopposed motions to intervene are automatically granted by operation of Rule 214(c)(1). Motions to intervene that are filed after the intervention deadline are untimely and may be denied. Any late-filed motion to intervene must show good cause for being late and must explain why the time limitation should be waived and provide justification by reference to factors set forth in Rule 214(d) of the Commission's Rules and Regulations. A person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies (paper or electronic) of all documents filed by the applicant and by all other parties.

Comments

Any person wishing to comment on the project may do so. The Commission considers all comments received about the project in determining the appropriate action to be taken. To ensure that your comments are timely and properly recorded, please submit your comments on or before May 28, 2021. The filing of a comment alone will not serve to make the filer a party to the proceeding. To become a party, you must intervene in the proceeding.

How To File Protests, Interventions, and Comments

There are two ways to submit protests, motions to intervene, and comments. In both instances, please reference the Project docket number CP21–90–000 in your submission. The Commission encourages electronic filing of submissions.

(1) You may file your protest, motion to intervene, and comments by using the Commission's eFiling feature, which is located on the Commission's website (*www.ferc.gov*) under the link to Documents and Filings. New eFiling users must first create an account by clicking on ''eRegister.'' You will be asked to select the type of filing you are making; first select General'' and then select ''Protest'', ''Intervention'', or ''Comment on a Filing.''

The Commission's eFiling staff are available to assist you at (202) 502–8258 or *FercOnlineSupport@ferc.gov.*

(2) You can file a paper copy of your submission. Your submission must reference the Project docket number CP21–90–000.

To mail via USPS, use the following address: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426.

To mail via any other courier, use the following address: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 12225 Wilkins Avenue, Rockville, Maryland 20852.

Protests and motions to intervene must be served on the applicant either by mail or email (with a link to the document) at: *blairlichtenwalter@energytransfer.com,* 1300 Main Street, Houston, Texas 77002. Any subsequent submissions by an intervenor must be served on the applicant and all other parties to the proceeding. Contact information for parties can be downloaded from the service list at the eService link on FERC Online.

Tracking the Proceeding

Throughout the proceeding, additional information about the project will be available from the Commission's Office of External Affairs, at (866) 208–FERC, or on the FERC website at *www.ferc.gov* using the ''eLibrary'' link as described above. The eLibrary link also provides access to the texts of all formal documents issued by the Commission, such as orders, notices, and rulemakings.

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Dated: March 29, 2021.

Kimberly D. Bose,

Secretary.

[FR Doc. 2021–06847 Filed 4–1–21; 8:45 am]

BILLING CODE 6717–01–P

[3] 18 CFR 157.205(e).

[4] 18 CFR 385.214.

[5] 18 CFR 157.10.

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

March 29, 2021.

Take notice that the Commission received the following electric corporate filings:

Docket Numbers: EC21–68–000.
Applicants: Oleander Power Project, Limited Partnership.
Description: Application for Authorization Under Section 203 of the Federal Power Act of Oleander Power Project, Limited Partnership.
Filed Date: 3/26/21.
Accession Number: 20210326–5202.
Comments Due: 5 p.m. ET 4/16/21.

Docket Numbers: EC21–69–000.
Applicants: Sugar Solar, LLC, PGR 2020 Lessee 8, LLC.
Description: Application for Authorization Under Section 203 of the Federal Power Act of Sugar Solar, LLC, et al.
Filed Date: 3/29/21.
Accession Number: 20210329–5170.
Comments Due: 5 p.m. ET 4/19/21.

Docket Numbers: EC21–70–000.
Applicants: Elmwood Park Power, LLC.
Description: Application for Authorization Under Section 203 of the Federal Power Act of Elmwood Park Power, LLC.

Filed Date: 3/29/21.
Accession Number: 20210329–5174.
Comments Due: 5 p.m. ET 4/19/21.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER11–4351–011.
Applicants: Pinnacle Wind, LLC.
Description: Notice of Change in Status of Pinnacle Wind, LLC.
Filed Date: 3/26/21.
Accession Number: 20210326–5199.
Comments Due: 5 p.m. ET 4/16/21.

Docket Numbers: ER13–1430–011.
Applicants: Arlington Valley Solar Energy II, LLC.
Description: Notice of Change in Status of Arlington Valley Solar Energy II, LLC.
Filed Date: 3/26/21.
Accession Number: 20210326–5257.
Comments Due: 5 p.m. ET 4/16/21.

Docket Numbers: ER13–2387–009; ER15–190–018; ER18–1343–010.
Applicants: Duke Energy Florida, LLC, Duke Energy Renewable Services, LLC, Carolina Solar Power, LLC.
Description: Notice of Non-Material Change in Status of Duke Energy Florida, LLC, et. al.
Filed Date: 3/26/21.
Accession Number: 20210326–5200.
Comments Due: 5 p.m. ET 4/16/21.

Docket Numbers: ER20–1750–004.
Applicants: Southwest Power Pool, Inc.
Description: Compliance filing: Compliance Filing in Response to Order issued in ER20–1750–001 to be effective 7/1/2020.
Filed Date: 3/29/21.
Accession Number: 20210329–5044.
Comments Due: 5 p.m. ET 4/19/21.

Docket Numbers: ER21–1532–000.
Applicants: Quitman II Solar, LLC.
Description: Baseline eTariff Filing: Quitman II Solar, LLC Application for MBR Authority to be effective 5/26/2021.
Filed Date: 3/26/21.
Accession Number: 20210326–5154.
Comments Due: 5 p.m. ET 4/16/21.

Docket Numbers: ER21–1533–000.
Applicants: Monongahela Power Company.
Description: § 205(d) Rate Filing: Revisions to Market-Based Rate Tariff of Monongahela Power to be effective 5/15/2021.
Filed Date: 3/26/21.
Accession Number: 20210326–5159.
Comments Due: 5 p.m. ET 4/16/21.

Docket Numbers: ER21–1534–000.
Applicants: Jersey Central Power & Light Company.
Description: § 205(d) Rate Filing: Revisions to Market-Based Rate Tariff of Jersey Central Power & Light to be effective 5/15/2021.
Filed Date: 3/26/21.
Accession Number: 20210326–5164.
Comments Due: 5 p.m. ET 4/16/21.

Docket Numbers: ER21–1535–000.
Applicants: PJM Interconnection, L.L.C.
Description: Tariff Cancellation: Notice of Cancellation of ISA Nos. 1405 and 3888, and WMPA SA Nos. 2646 and 1752 to be effective 5/31/2021.
Filed Date: 3/26/21.
Accession Number: 20210326–5167.
Comments Due: 5 p.m. ET 4/16/21.

Docket Numbers: ER21–1536–000.
Applicants: California Independent System Operator Corporation.
Description: § 205(d) Rate Filing: 2021–03–26 2021 Summer Readiness to be effective 12/31/9998.
Filed Date: 3/26/21.
Accession Number: 20210326–5168.
Comments Due: 5 p.m. ET 4/16/21.

Docket Numbers: ER21–1538–000.
Applicants: Allegheny Energy Supply Company, LLC.
Description: § 205(d) Rate Filing: Revisions to Market-Based Rate Tariff of AE Supply to be effective 5/15/2021.
Filed Date: 3/26/21.
Accession Number: 20210326–5170.
Comments Due: 5 p.m. ET 4/16/21.

Docket Numbers: ER21–1539–000.
Applicants: PJM Interconnection, L.L.C.
Description: Tariff Cancellation: Notice of Cancellation of ISA Nos. 3468 and 3463 to be effective 6/1/2021.
Filed Date: 3/26/21.
Accession Number: 20210326–5174.
Comments Due: 5 p.m. ET 4/16/21.

Docket Numbers: ER21–1540–000.
Applicants: Pennsylvania Electric Company.
Description: § 205(d) Rate Filing: Revisions to Market-Based Rate Tariff of Penelec to be effective 5/15/2021.
Filed Date: 3/26/21.
Accession Number: 20210326–5175.
Comments Due: 5 p.m. ET 4/16/21.

Docket Numbers: ER21–1541–000.
Applicants: Solios Power Mid-Atlantic Virtual LLC.
Description: Tariff Cancellation: Notice of Cancellation of MBR Tariff to be effective 3/30/2021.
Filed Date: 3/29/21.
Accession Number: 20210329–5000.
Comments Due: 5 p.m. ET 4/19/21.

Docket Numbers: ER21–1542–000.
Applicants: Tri-State Generation and Transmission Association, Inc.
Description: § 205(d) Rate Filing: Amendment to Service Agreement No. 838 to be effective 3/25/2021.
Filed Date: 3/29/21.
Accession Number: 20210329–5051.
Comments Due: 5 p.m. ET 4/19/21.

Docket Numbers: ER21–1543–000.
Applicants: Midcontinent Independent System Operator, Inc.
Description: § 205(d) Rate Filing: 2021–03–29_SA 3408 Ameren Illinois-Glacier Sands Wind 1st Rev GIA (J1055 J1454) to be effective 3/18/2021.
Filed Date: 3/29/21.
Accession Number: 20210329–5052.
Comments Due: 5 p.m. ET 4/19/21.

Docket Numbers: ER21–1545–000.
Applicants: PJM Interconnection, L.L.C.
Description: § 205(d) Rate Filing: Amendment to WMPA SA No. 5523; Queue No. AE1–162 to be effective 10/29/2019.
Filed Date: 3/29/21.
Accession Number: 20210329–5075.
Comments Due: 5 p.m. ET 4/19/21.

Docket Numbers: ER21–1546–000.
Applicants: DTE Electric Company.
Description: § 205(d) Rate Filing: Update to Reactive Revenue Volume No. 5 to be effective 6/1/2021.
Filed Date: 3/29/21.
Accession Number: 20210329–5080.
Comments Due: 5 p.m. ET 4/19/21.

Docket Numbers: ER21–1547–000.
Applicants: PacifiCorp.
Description: § 205(d) Rate Filing: OATT Revised Attachment H–1 (Rev Depreciation Rates 2021) to be effective 6/1/2021.
Filed Date: 3/29/21.
Accession Number: 20210329–5097.
Comments Due: 5 p.m. ET 4/19/21.

Docket Numbers: ER21–1548–000.
Applicants: Indiana Michigan Power Company, PJM Interconnection, L.L.C.
Description: § 205(d) Rate Filing: AEP submits I&M & NIPSCO Interconnection Agreement SA No. 1263 to be effective 3/5/2021.
Filed Date: 3/29/21.
Accession Number: 20210329–5120.
Comments Due: 5 p.m. ET 4/19/21.

Docket Numbers: ER21–1549–000.
Applicants: Southwest Power Pool, Inc.
Description: § 205(d) Rate Filing: 3620R2 Kansas City Board of Public Utilities NITSA NOA to be effective 3/1/2021.
Filed Date: 3/29/21.
Accession Number: 20210329–5134.
Comments Due: 5 p.m. ET 4/19/21.

Docket Numbers: ER21–1550–000.
Applicants: Evergy Kansas Central, Inc.
Description: § 205(d) Rate Filing: Revisions, Full Requirements Electric Service Agreements to be effective 5/31/2021.
Filed Date: 3/29/21.

Accession Number: 20210329–5141.
Comments Due: 5 p.m. ET 4/19/21.

Docket Numbers: ER21–1551–000.
Applicants: California Independent System Operator Corporation.
Description: § 205(d) Rate Filing: 2021–03–29 Resource Adequacy Enhancements Tariff Amendment to be effective 6/1/2021.
Filed Date: 3/29/21.
Accession Number: 20210329–5191.
Comments Due: 5 p.m. ET 4/19/21.

Docket Numbers: ER21–1552–000.
Applicants: Union Electric Company.
Description: § 205(d) Rate Filing: Volume No. 1, Market Based Rate Tariff to be effective 3/30/2021.
Filed Date: 3/29/21.
Accession Number: 20210329–5196.
Comments Due: 5 p.m. ET 4/19/21.

Take notice that the Commission received the following electric securities filings:

Docket Numbers: ES21–34–000.
Applicants: ISO New England Inc.
Description: Application Under Section 204 of the Federal Power Act for an Order Authorizing Future Drawdowns Under Existing Authorized Securities of ISO New England Inc.
Filed Date: 3/26/21.
Accession Number: 20210326–5148.
Comments Due: 5 p.m. ET 4/16/21.

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: March 29, 2021.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2021–06819 Filed 4–1–21; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2020–0144; FRL–10021–76]

Product Cancellation Order for Certain Pesticide Registrations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces EPA's order for the cancellations, voluntarily requested by the registrants and accepted by the Agency, of the products listed in Table 1 of Unit II, pursuant to the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). This cancellation order follows a July 30, 2020 **Federal Register** Notice of Receipt of Requests from the registrants listed in Table 2 of Unit II to voluntarily cancel these product registrations. In the July 30, 2020 notice, EPA indicated that it would issue an order implementing the cancellations, unless the Agency received substantive comments within the 180-day comment period that would merit its further review of these requests, or unless the registrants withdrew their requests. The Agency received two anonymous public comments on the notice, but none merited its further review of the requests. Further, the registrants did not withdraw their requests. Accordingly, EPA hereby issues in this notice a cancellation order granting the requested cancellations. Any distribution, sale, or use of the products subject to this cancellation order is permitted only in accordance with the terms of this order, including any existing stocks provisions.

DATES: The cancellations are applicable April 2, 2021.

FOR FURTHER INFORMATION CONTACT: Christopher Green, Registration Division (7502P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001; telephone number: (703) 347–0367; email address: *green.christopher@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

This action is directed to the public in general, and may be of interest to a wide range of stakeholders including environmental, human health, and agricultural advocates; the chemical industry; pesticide users; and members of the public interested in the sale, distribution, or use of pesticides. Since others also may be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action.

B. How can I get copies of this document and other related information?

The docket for this action, identified by docket identification (ID) number EPA–HQ–OPP–2020–0144, is available at *http://www.regulations.gov* or at the Office of Pesticide Programs Regulatory Public Docket (OPP Docket) in the Environmental Protection Agency Docket Center (EPA/DC), West William Jefferson Clinton Bldg., Rm. 3334, 1301 Constitution Ave. NW, Washington, DC 20460–0001. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the OPP Docket is (703) 305–5805. Please review the visitor instructions and additional information about the docket available at *http://www.epa.gov/dockets*.

II. What action is the Agency taking?

This notice announces the cancellation, as requested by registrants, of products registered under FIFRA section 3 (7 U.S.C. 136a). These registrations are listed in sequence by registration number in Table 1 of this unit.

TABLE 1—PRODUCT CANCELLATIONS

Registration No.	Company No.	Product name	Active ingredients
228–619	228	NuFarm Sethoxydim SPC Herbicide	Sethoxydim.
1258–1265	1258	Baquacil Ultra Swimming Pool Sanitizer & Fungicide	Poly(iminoimidocarbonyliminoimidocarbony liminohexamethylene) hydrochloride.
62719–397	62719	Kerb 50–W	Propyzamide.
CA–960008	62719	Kerb 50W Herbicide in WSP	Propyzamide.
FL–910007	62719	Kerb 50W Herbicide	Propyzamide.
ID–020020	62719	Kerb 50W Herbicide in WSP	Propyzamide.

Table 2 of this unit includes the names and addresses of record for all registrants of the products in Table 1 of this unit, in sequence by EPA company number. This number corresponds to the first part of the EPA registration numbers of the products listed in Table 1 of this unit.

TABLE 2—REGISTRANTS OF CANCELLED PRODUCTS

EPA company No.	Company name and address
228	NuFarm Americas, Inc., 4020 Aerial Center Pkwy., Ste. 101, Morrisville, NC 27560.
1258	Arch Chemicals, Inc., 1200 Bluegrass Lakes Parkway, Alpharetta, GA 30004.
62719	Dow Agrosciences, LLC, 9330 Zionsville Rd., 308/2E, Indianapolis, IN 46268–1054.

III. Summary of Public Comments Received and Agency Response to Comments

The Agency received two anonymous public comments on the notice. For these reasons, the Agency does not believe that the comments submitted during the comment period merit further review or a denial of the requests for voluntary cancellation.

IV. Cancellation Order

Pursuant to FIFRA section 6(f) (7 U.S.C. 136d(f)), EPA hereby approves the requested cancellations of the registrations identified in Table 1 of Unit II. Accordingly, the Agency hereby orders that the product registrations identified in Table 1 of Unit II are canceled. The applicable date of the cancellations that are the subject of this notice is April 2, 2021. Any distribution, sale, or use of existing stocks of the products identified in Table 1 of Unit II in a manner inconsistent with any of the provisions for disposition of existing stocks set forth in Unit VI will be a violation of FIFRA.

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

Section 6(f)(1) of FIFRA (7 U.S.C. 136d(f)(1)) provides that a registrant of a pesticide product may at any time request that any of its pesticide registrations be canceled or amended to terminate one or more uses. FIFRA further provides that, before acting on the request, EPA must publish a notice of receipt of any such request in the **Federal Register**. Thereafter, following the public comment period, the EPA Administrator may approve such a request. The notice of receipt for this action was published for comment in the **Federal Register** of July 30, 2020 (85 FR 45881) (FRL–10012–41). The comment period closed on January 26, 2021.

VI. Provisions for Disposition of Existing Stocks

Existing stocks are those stocks of registered pesticide products which are currently in the United States and which were packaged, labeled, and released for shipment prior to the applicable date of the cancellation action. The existing stocks provisions for the products subject to this order are as follows.

The registrants may continue to sell and distribute existing stocks of products listed in Table 1 of Unit II until April 4, 2022, which is 1 year after the publication of the Cancellation Order in the **Federal Register**. Thereafter, the registrants are prohibited from selling or distributing products listed in Table 1, except for export in accordance with FIFRA section 17 (7 U.S.C. 136o), or proper disposal. Persons other than the registrants may sell, distribute, or use existing stocks of products listed in Table 1 of Unit II until existing stocks are exhausted, provided that such sale, distribution, or use is consistent with the terms of the previously approved labeling on, or that accompanied, the canceled products.

Authority: 7 U.S.C. 136 *et seq.*

Dated: March 26, 2021.

Marietta Echeverria,

Acting Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 2021–06808 Filed 4–1–21; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[ER–FRL–9055–9]

Environmental Impact Statements; Notice of Availability

Responsible Agency: Office of Federal Activities, General Information 202–564–5632 or *https://www.epa.gov/nepa.*

Weekly receipt of Environmental Impact Statements (EIS)

Filed March 22, 2021 10 a.m. EST

Through March 29, 2021 10 a.m. EST

Pursuant to 40 CFR 1506.9.

Notice: Section 309(a) of the Clean Air Act requires that EPA make public its comments on EISs issued by other Federal agencies. EPA's comment letters on EISs are available at: *https://cdxnodengn.epa.gov/cdx-enepa-public/action/eis/search.*

EIS No. 20210038, Draft, WAPA, WY, Rail Tie Wind Project, Comment Period Ends: 05/17/2021, Contact: Mark Wieringa 720–962–7448.

Dated: March 29, 2021.

Cindy S. Barger,

Director, NEPA Compliance Division, Office of Federal Activities.

[FR Doc. 2021–06822 Filed 4–1–21; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OAR–2009–0022; FRL—10022–23–OAR]

Proposed Information Collection Request; Comment Request; Acid Rain Program (Renewal)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency (EPA) is planning to submit an information collection request (ICR), ''Acid Rain Program (Renewal)'' (EPA ICR No. 1633.18, OMB Control No. 2060–0258) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act. Before doing so, EPA is soliciting public comments on specific aspects of the proposed information collection as described below. This is a proposed extension of the ICR, which is currently approved through December 31, 2021. 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.

DATES: Comments must be submitted on or before June 1, 2021.

ADDRESSES: Submit your comments, referencing Docket ID No. EPA–HQ–OAR–2009–0022, online using *www.regulations.gov* (our preferred method), by email to *a-and-r-Docket@epa.gov,* or by mail to: EPA Docket

Center, Environmental Protection Agency, Mail Code 28221T, 1200 Pennsylvania Ave. NW, Washington, DC 20460.

EPA's policy is that all comments received will be included in the public docket without change including any personal information provided, unless the comment includes profanity, threats, information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute.

FOR FURTHER INFORMATION CONTACT: Karen VanSickle, Clean Air Markets Division, Office of Air and Radiation, (6204M), Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460; telephone number: 202–343–9220; fax number: 202–343–2361; email address: *vansickle.karen@epa.gov.*

SUPPLEMENTARY INFORMATION: Supporting documents which explain in detail the information that the EPA will be collecting are available in the public docket for this ICR. The docket can be viewed online at *www.regulations.gov* or in person at the EPA Docket Center, WJC West, Room 3334, 1301 Constitution Ave. NW, Washington, DC. The telephone number for the Docket Center is 202–566–1744. For additional information about EPA's public docket, visit *http://www.epa.gov/dockets.*

Pursuant to section 3506(c)(2)(A) of the PRA, EPA is soliciting comments and information to enable it to: (i) 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; (ii) 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; (iii) enhance the quality, utility, and clarity of the information to be collected; and (iv) 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. EPA will consider the comments received and amend the ICR as appropriate. The final ICR package will then be submitted to OMB for review and approval. At that time, EPA will issue another **Federal Register** notice to announce the submission of the ICR to OMB and the opportunity to submit additional comments to OMB.

Abstract: The Acid Rain Program was established under Title IV of the 1990 Clean Air Act Amendments to address acid deposition by reducing emissions of sulfur dioxide (SO_2) and nitrogen oxides (NO_X). This information collection extension is necessary to continue implementation of the Acid Rain Program. It includes burden and costs associated with developing and modifying permits, complying with NO_X permitting requirements, monitoring emissions, transferring allowances, participating in the annual allowance auctions, and participating in the program as an opt-in source.

Form Numbers: Agent Notice of Delegation #5900–172, Certificate of Representation #7610–1, General Account Form #7610–5, Allowance Transfer Form #7610–6, Retired Unit Exemption #7610–20, Allowance Deduction #7620–4, Acid Rain Permit Application #7610–16, Acid Rain NO_X Compliance Plan #7610–28, Acid Rain NO_X Averaging Plan #7610–29, New Unit Exemption #7610–19, Opt-In Permit Application #7610–26, Opt-In Utilization Report #7620–9. *Respondents/affected entities:* Electricity generating plants, industrial sources, and other persons.

Respondents' obligation to respond: Voluntary and mandatory (Clean Air Act sections 403, 407, 408, 410, 412, and 416).

Estimated number of respondents: 1,219 (total); includes 1,169 sources and 50 non-source entities participating in allowance trading activities.

Frequency of response: On occasion, quarterly, and annually.

Total estimated burden: 1,826,133 hours (per year). Burden is defined at 5 CFR 1320.03(b).

Total estimated cost: $276,811,849 (per year); includes $129,450,755 annualized capital or operation & maintenance costs.

Changes in Estimates: There is a decrease of 47,747 hours in the total estimated respondent burden compared with the ICR currently approved by OMB. The decrease is principally due to source retirements, which have both reduced the estimated overall number of affected sources and shifted the estimated mix of monitoring methodologies used. The other factors contributing to the decrease in burden are reductions in the estimated numbers of allowance transfer and deduction submissions, expected opt-in sources, and allowance auction bids.

Reid P. Harvey,

Director, Clean Air Markets Division, Office of Atmospheric Programs, Office of Air and Radiation.

[FR Doc. 2021–06864 Filed 4–1–21; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2020–0060; FRL–10021–91]

Cancellation Order for Certain Pesticide Registration and Amendments To Terminate Uses

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces EPA's order for the cancellations and amendments to terminate uses, voluntarily requested by the registrants and accepted by the Agency, of the products listed in Table 1 and Table 2 of Unit II, pursuant to the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). This cancellation order follows a February 10, 2021 **Federal Register** Notice of Receipt of Requests from the registrants listed in Table 3 of Unit II to voluntarily cancel and amend to terminate uses of these product registrations. In the February 10, 2021 notice, EPA indicated that it would issue an order implementing the cancellations and amendments to terminate uses, unless the Agency received substantive comments within the 30-day comment period that would merit its further review of these requests, or unless the registrants withdrew their requests. The Agency received three comments on the notice, but none merited its further review of the requests. Further, the registrants did not withdraw their requests. Accordingly, EPA hereby issues in this notice a cancellation order granting the requested cancellations and amendments to terminate uses. Any distribution, sale, or use of the products subject to this cancellation order is permitted only in accordance with the terms of this order, including any existing stocks provisions.

DATES: The cancellations and amendments are effective April 2, 2021.

FOR FURTHER INFORMATION CONTACT: Christopher Green, Registration Division (7502P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001; telephone number: (703)

347–0367; email address: *green.christopher@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

This action is directed to the public in general and may be of interest to a wide range of stakeholders including environmental, human health, and agricultural advocates; the chemical industry; pesticide users; and members of the public interested in the sale, distribution, or use of pesticides. Since others also may be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action.

B. How can I get copies of this document and other related information?

The docket for this action, identified by docket identification (ID) number EPA–HQ–OPP–2020–0060, is available at *http://www.regulations.gov* or at the Office of Pesticide Programs Regulatory Public Docket (OPP Docket) in the Environmental Protection Agency Docket Center (EPA/DC), West William Jefferson Clinton Bldg., Rm. 3334, 1301 Constitution Ave. NW, Washington, DC 20460–0001. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the OPP Docket is (703) 305–5805. Please review the visitor instructions and additional information about the docket available at *http://www.epa.gov/dockets.*

II. What action is the Agency taking?

This notice announces the cancellations and amendments to terminate uses, as requested by registrants, of products registered under FIFRA section 3 (7 U.S.C. 136a). These registrations are listed in sequence by registration number in Tables 1 and 2 of this unit.

TABLE 1—PRODUCT CANCELLATIONS

Registration No.	Company No.	Product name	Active ingredients
106–44	106	Brulin CDQ	Alkyl* dimethyl benzyl ammonium chloride *(60%C14, 30%C16, 5%C18, 5%C12) & Alkyl* dimethyl ethylbenzyl ammonium chloride *(68%C12, 32%C14).
228–688	228	NuFarm Chlormequat Pro Plant Growth Regulator (Active); NuFarm Chlormequat SPC Plant Growth (Alternate).	Chlormequat chloride.
241–260	241	Amdro Granular Insecticide	Hydramethylnon.
241–261	241	Amdro 20 Fireant Insecticide	Hydramethylnon.
241–371	241	Sensible Termiticide Bait	Hydramethylnon.
279–3615	279	F4189-1	Thiamethoxam; Metalaxyl-M; Difenoconazole; Tebuconazole & Thiophanate-methyl.
352–832	352	Dupont DPX-B2856 3.0 Herbicide	Glyphosate-isopropylammonium.
499–530	499	TC-250	Hydramethylnon.
1007–99	1007	Nolvasan Solution	Chlorhexidine diacetate.
1007–100	1007	Fort Dodge Nolvasan S (Active); Nolvasan S (Alternate).	Chlorhexidine diacetate.
1007–101	1007	Chlorhexidine Diacetate	Chlorhexidine diacetate.
1043–87	1043	Vesphene II Se	4-tert-Amylphenol & o-Phenylphenol (NO INERT USE).
1043–91	1043	LPH Master Product	4-tert-Amylphenol & o-Phenylphenol (NO INERT USE).
1043–92	1043	LPH SE	4-tert-Amylphenol & o-Phenylphenol (NO INERT USE).
1258–997	1258	Pace Pool Chlorinating Type E Cartridge	Trichloro-s-triazinetrione.
1258–1083	1258	Constant Chlor Universal Refillable Cartridge for Floaters and Feeder.	Trichloro-s-triazinetrione.
1258–1133	1258	Pace Disposable Floating Cartridge	Trichloro-s-triazinetrione.
1258–1271	1258	Pool Breeze Pool Care System 3'' Chlorinating Tablets.	Trichloro-s-triazinetrione.
1258–1282	1258	Pool Breeze Pool Care System 1'' Chlorinating Tablets.	Trichloro-s-triazinetrione.
1381–213	1381	Daze 50WP	Thidiazuron.
1448–428	1448	GBCH	2,4-Imidazolidinedione, 1-bromo-3-chloro-5,5-dimethyl-.
2693–46	2693	Mil-P-15931B Formula 121/63 Antifouling Paint Vinyl Red.	Cuprous oxide.
2693–56	2693	Mil-P-16189B Formula 129/63 Antifouling Paint, Vinyl Black.	Cuprous oxide.
6836–202	6836	Barquat MM-45	Alkyl* dimethyl benzyl ammonium chloride *(100% C14).
7364–43	7364	Chlorination Tablets Float Canister	Trichloro-s-triazinetrione.
7364–44	7364	Tabex Chlorination Tablets Feeder Canister	Trichloro-s-triazinetrione.
7364–49	7364	Tabex Replacement Chlorinating Canister	Trichloro-s-triazinetrione.
9688–286	9688	Chemsico Brush Killer Concentrate II	2,4-D, 2-ethylhexyl ester; Dicamba & 2,4-DP-p, 2-ethylhexyl ester.
10807–177	10807	Misty II Disinfectant & Deodorant	Ethanol; 4-tert-Amylphenol & o-Phenylphenol (NO INERT USE).
35935–62	35935	ET-012 (Active); Chlormequat Chloride Technical (Alternate).	Chlormequat chloride.
35935–114	35935	Imazethapyr Technical	Imazethapyr.

TABLE 1—PRODUCT CANCELLATIONS—Continued

Registration No.	Company No.	Product name	Active ingredients
52287–15	52287	Harrell's Granular Herbicide 75	Trifluralin & Oxyfluorfen.
55146–42	55146	Algae-RHAP CU-7 Liquid Copper Algaecide	Copper sulfate pentahydrate.
55146–72	55146	Agri Tin Agricultural Fungicide	Fentin hydroxide.
62719–322	62719	NAF-545	Glyphosate-isopropylammonium.
62719–323	62719	Glyphomax	Glyphosate-isopropylammonium.
62719–345	62719	Erase Blue	Glyphosate-isopropylammonium.
62719–361	62719	Glyphosate 18% Concentrate Grass and Weed Killer	Glyphosate-isopropylammonium.
62719–362	62719	Glyphosate 0.96% RTU	Glyphosate-isopropylammonium.
62719–366	62719	Glymix MT	2,4–D, isopropylamine salt & Glyphosate-isopropylammonium.
62719–448	62719	Rawhide 4F Herbicide	Glyphosate-isopropylammonium & Oxyfluorfen.
62719–481	62719	Glyphosate 1.92% RTU	Glyphosate-isopropylammonium.
62719–495	62719	Glyphosate 41% Concentrate	Glyphosate-isopropylammonium.
62719–496	62719	GF-887	Glyphosate-isopropylammonium.
62719–509	62719	GF-772	Glyphosate-isopropylammonium.
62719–517	62719	GF-1279	Glyphosate-isopropylammonium.
62719–614	62719	Firststep Herbicide Tank Mix	Glycine, N-(phosphonomethyl)-, compd. with N-methylmethanamine (1:1) & Florasulam.
62719–673	62719	GF-2726 SR	Glycine, N-(phosphonomethyl)-, compd. with N-methylmethanamine (1:1) & 2,4-D, Choline salt.
66570–2	66570	Effersan	Sodium dichloro-s-triazinetrione.
67543–7	67543	Super KL	Cuprous oxide.
70644–8	70644	Bio-Blast Biological Termiticide	Metarhizium anisopliae Strain ESF1.
75801–1	75801	Spot-Less Biofungicide	Pseudomonas aureofaciens strain Tx-1.
87290–3	87290	Willowood Pronamide 50WSP	Propyzamide.
94483–1	94483	Lment Mesotrione Technical	Mesotrione.
AZ–150001	8033	Assail 70WP Insecticide	Acetamiprid.
AZ–170004	70506	Assail 30 SG Insecticide	Acetamiprid.

TABLE 2—PRODUCT REGISTRATION AMENDMENTS TO TERMINATE USES

Registration No.	Company No.	Product name	Active ingredient	Uses to be terminated
1448–29	1448	TCMTB	2-(Thiocyanomethylthio)benzothiazole	Seed treatment.
1448–403	1448	TCMTB 150	2-(Thiocyanomethylthio)benzothiazole	Seed treatment.
1448–405	1448	TCMTB-DM	2-(Thiocyanomethylthio)benzothiazole	Seed treatment.
40230–1	40230	Galltrol-A	Agrobacterium radiobacter (strain K84)	Grapes.
64405–29	64405	Copper 8-Quinolinolate	Copper, bis(8-quinolinolato-N1,O8)-,	In-can paint preservative.

Table 3 of this unit includes the names and addresses of record for all registrants of the products in Tables 1 and 2 of this unit, in sequence by EPA company number. This number corresponds to the first part of the EPA registration numbers of the products listed above.

TABLE 3—REGISTRANTS OF CANCELLED AND AMENDED PRODUCTS

EPA company No.	Company name and address
106	Brulin & Company, Inc., P.O. Box 270, Indianapolis, IN 46206.
228	NuFarm Americas, Inc., 4020 Aerial Center Pkwy., Ste. 101, Morrisville, NC 27560.
241	BASF Corporation, 26 Davis Drive, P.O. Box 13528, Research Triangle Park, NC 27709–3528.
279	FMC Corporation, 2929 Walnut Street, Philadelphia, PA 19104.
352	E.I. Du Pont De Nemours and Company, 9330 Zionsville Road, Indianapolis, IN 46268.
499	BASF Corporation, 26 Davis Drive, P.O. Box 13528, Research Triangle Park, NC 27709–3528.
1007	Zoetis, Inc., 333 Portage Street, Kalamazoo, MI 49007–4931.
1043	Steris Corporation, P.O. Box 147, St. Louis, MO 63166–0147.
1258	Arch Chemicals, Inc., 1200 Bluegrass Lakes Parkway, Alpharetta, GA 30004.
1381	Winfield Solutions, LLC, P.O. Box 64589, St. Paul, MN 55164–0589.
1448	Buckman Laboratories, Inc., 1256 North Mclean Blvd, Memphis, TN 38108.
2693	International Paint, LLC, 6001 Antoine Drive, Houston, TX 77091.
6836	Lonza, LLC, 412 Mount Kemble Avenue, Suite 200S, Morristown, NJ 07960.
7364	Innovative Water Care, LLC, d/b/a GLB Pool & Spa, 1400 Bluegrass Lakes Parkway, Alpharetta, GA 30004.
8033	Nippon Soda Co., Ltd., Agent Name: Nisso America, Inc., 379 Thornall Street, 5th Floor, Edison, NJ 08837.
9688	Chemsico, A Division of United Industries Corp., P.O. Box 142642, St. Louis, MO 63114–0642.
10807	AMREP, Inc., Agent Name: Zep, Inc. c/o Compliance Services, 3330 Cumberland Blvd., Suite 700, Atlanta, GA 30339.
35935	NuFarm Limited, Agent Name: NuFarm Americas, Inc., 4020 Aerial Center Pkwy., Ste 101, Morrisville, NC 27560.
40230	AgBiochem, Inc., 3750 North 1020 East, Provo, UT 84604.

TABLE 3—REGISTRANTS OF CANCELLED AND AMENDED PRODUCTS—Continued

EPA company No.	Company name and address
52287	Harrell's, LLC, P.O. Box 807, Lakeland, FL 33802.
55146	NuFarm Americas, Inc., AGT Division, 4020 Aerial Center Pkwy., Suite 101, Morrisville, NC 27560.
62719	Dow AgroSciences, LLC, 9330 Zionsville Road, Indianapolis, IN 46268.
64405	Nisus Corporation, Attn: Regulatory Affairs, 100 Nisus Drive, Rockford, TN 37853–3069.
66570	Activon, Inc., Agent Name: Scientific & Regulatory Consultants, Inc., 201 W. Van Buren Street, Columbia City, IN 46725.
67543	International Paint, LLC, 6001 Antoine Drive, Houston, TX 77091.
70506	UPL NA, Inc., 630 Freedom Business Center, Suite 402, King of Prussia, PA 19406.
70644	Lidochem, Inc., Agent Name: RegWest Company, LLC, 8209 West 20th Street, Suite B, Greeley, CO 80634–4699.
75801	Turf Science Laboratories, Inc., International Pest & Vegetative Management, P.O. Box 462785, Escondido, CA 92046.
87290	Willowood, LLC, c/o Generic Crop Science, LLC, 1887 Whitney Messa Drive, #9740, Henderson, NV 89014–2069.
94483	LMENT, LLC, Agent Name: Wagner Regulatory Associates, Inc., 7217 Lancaster Pike, Suite A, P.O. Box 640, Hockessin, DE 19707–0640.

III. Summary of Public Comments Received and Agency Response to Comments

The Agency received one anonymous public comment and two other public comments on the notice. For these reasons, the Agency does not believe that the comments submitted during the comment period merit further review or a denial of the requests for voluntary cancellation and use termination.

IV. Cancellation Order

Pursuant to FIFRA section 6(f) (7 U.S.C. 136d(f)(1)), EPA hereby approves the requested cancellations and amendments to terminate uses of the registrations identified in Tables 1 and 2 of Unit II. Accordingly, the Agency hereby orders that the product registrations identified in Tables 1 and 2 of Unit II are canceled and amended to terminate the affected uses. The effective date of the cancellations that are subject of this notice is April 2, 2021. Any distribution, sale, or use of existing stocks of the products identified in Tables 1 and 2 of Unit II in a manner inconsistent with any of the provisions for disposition of existing stocks set forth in Unit VI will be a violation of FIFRA.

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

Section 6(f)(1) of FIFRA (7 U.S.C. 136d(f)(1)) provides that a registrant of a pesticide product may at any time request that any of its pesticide registrations be canceled or amended to terminate one or more uses. FIFRA further provides that, before acting on the request, EPA must publish a notice of receipt of any such request in the **Federal Register**. Thereafter, following the public comment period, the EPA Administrator may approve such a request. The notice of receipt for this action was published for comment in the **Federal Register** of February 10, 2021 (86 FR 8902) (FRL–10016–15). The comment period closed on March 12, 2021.

VI. Provisions for Disposition of Existing Stocks

Existing stocks are those stocks of registered pesticide products which are currently in the United States and which were packaged, labeled, and released for shipment prior to the effective date of the action. The existing stocks provision for the products subject to this order is as follows.

For the voluntary cancellations listed in Table 1 of Unit II, the registrants may continue to sell and distribute existing stocks of products listed in Table 1 until March 31, 2022, which is 1 year after publication of this cancellation order in the **Federal Register**. Thereafter, the registrants are prohibited from selling or distributing products listed in Table 1 of Unit II, except for export in accordance with FIFRA section 17 (7 U.S.C. 136o) or for proper disposal.

Now that EPA has approved the product labels reflecting the requested amendments to terminate, listed in Table 2 of Unit II, registrants are permitted to sell or distribute products listed in Table 2 of Unit II under the previously approved labeling until September 30, 2022, a period of 18 months after publication of the cancellation order in this **Federal Register**, unless other restrictions have been imposed. Thereafter, registrants will be prohibited from selling or distributing the products whose labels include the terminated uses identified in Table 2 of Unit II, except for export consistent with FIFRA section 17 or for proper disposal.

Persons other than the registrant may sell, distribute, or use existing stocks of canceled products and products whose labels include the terminated uses until supplies are exhausted, provided that such sale, distribution, or use is consistent with the terms of the previously approved labeling on, or that accompanied, the canceled products and terminated uses.

Authority: 7 U.S.C. 136 *et seq.*

Dated: March 26, 2021.

Marietta Echeverria,

Acting Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 2021–06851 Filed 4–1–21; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2021–0015; FRL–10022–13]

Product Cancellation Order for Certain Pesticide Registrations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces EPA's order for the cancellations, voluntarily requested by the registrants and accepted by the Agency, of the products listed in Table 1 of Unit II, pursuant to the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). This cancellation order follows a February 17, 2021 **Federal Register** Notice of Receipt of Requests from the registrants listed in Table 2 of Unit II to voluntarily cancel these product registrations. In the February 17, 2021 notice, EPA indicated that it would issue an order implementing the cancellations, unless the Agency received substantive comments within the 30-day comment period that would merit its further review of these requests, or unless the registrants withdrew their requests. The Agency received three public comments on the notice, but none merited its further review of the requests. Further, the registrant of 70596–9 & 15440–31 withdrew their requests for cancellation; therefore, these registrations have been removed from this notice. Accordingly,

EPA hereby issues in this notice a cancellation order granting the requested cancellations. Any distribution, sale, or use of the products subject to this cancellation order is permitted only in accordance with the terms of this order, including any existing stocks provisions.

DATES: The cancellations are effective April 2, 2021.

FOR FURTHER INFORMATION CONTACT: Christopher Green, Registration Division (7502P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001; telephone number: (703) 347–0367; email address: *green.christopher@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

This action is directed to the public in general and may be of interest to a wide range of stakeholders including environmental, human health, and agricultural advocates; the chemical industry; pesticide users; and members of the public interested in the sale, distribution, or use of pesticides. Since others also may be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action.

B. How can I get copies of this document and other related information?

The docket for this action, identified by docket identification (ID) number EPA–HQ–OPP–2021–0015, is available at *http://www.regulations.gov* or at the Office of Pesticide Programs Regulatory Public Docket (OPP Docket) in the Environmental Protection Agency Docket Center (EPA/DC), West William Jefferson Clinton Bldg., Rm. 3334, 1301 Constitution Ave. NW, Washington, DC 20460–0001. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the OPP Docket is (703) 305–5805. Please review the visitor instructions and additional information about the docket available at *http://www.epa.gov/dockets.*

II. What action is the Agency taking?

This notice announces the cancellation, as requested by registrants, of products registered under FIFRA section 3 (7 U.S.C. 136a). These registrations are listed in sequence by registration number in Table 1 of this unit.

TABLE 1—PRODUCT CANCELLATIONS

Registration No.	Company No.	Product name	Active ingredients
228–180	228	Riverdale 3-Way Weed and Feed with Triamine	MCPP-P, DMA salt; 2,4-DP-p, DMA salt & 2,4-D, dimethylamine salt.
228–184	228	Riverdale Sweet Sixteen Weed and Feed with Triamine.	MCPP-P, DMA salt; 2,4-DP-p, DMA salt & 2,4-D, dimethylamine salt.
228–210	228	Triamine Premium Liquid Weed & Feed	2,4-DP-p, DMA salt; 2,4-D, dimethylamine salt & MCPP-P, DMA salt.
228–211	228	Triamine 3-Way Lawn Weed Killer	2,4-DP-p, DMA salt; 2,4-D, dimethylamine salt & MCPP-P, DMA salt.
228–269	228	Sweet Sixteen Weed and Feed with Tri-Power (R)	Dicamba, dimethylamine salt; MCPA, dimethylamine salt & MCPP-P, DMA salt.
228–270	228	Riverdale Tri-Power (R) Weed and Feed	Dicamba, dimethylamine salt; MCPA, dimethylamine salt & MCPP-P, DMA salt.
228–271	228	Riverdale Tri-Power (R) Lawn Weed Killer	Dicamba, dimethylamine salt; MCPA, dimethylamine salt & MCPP-P, DMA salt.
228–272	228	Riverdale Tri-Power (R) Spot Weed Killer	Dicamba, dimethylamine salt; MCPA, dimethylamine salt & MCPP-P, DMA salt.
228–276	228	Riverdale Tri-Power (R) Liquid Weed and Feed	Dicamba, dimethylamine salt; MCPA, dimethylamine salt & MCPP-P, DMA salt.
228–277	228	Tri-Power Premium Liquid Weed and Feed	Dicamba, dimethylamine salt; MCPA, dimethylamine salt & MCPP-P, DMA salt.
228–278	228	Riverdale Triamine Premium Granular Weed Killer	2,4-DP-p, DMA salt; 2,4-D, dimethylamine salt & MCPP-P, DMA salt.
228–284	228	Tri-Power (R) Jet-Spray Spot Weed Killer	Dicamba, dimethylamine salt; MCPA, dimethylamine salt & MCPP-P, DMA salt.
228–286	228	Riverdale Tri-Power L.A. Weed and Feed	Dicamba, dimethylamine salt; MCPA, dimethylamine salt & MCPP-P, DMA salt.
228–288	228	Riverdale Triplet (R) Sensitive	MCPP-P, DMA salt; Dicamba, dimethylamine salt & 2,4-D, dimethylamine salt.
228–293	228	Riverdale Dissolve (R) 4000 Weed and Feed	Dimethylamine 2-(2,4-dichlorophenoxy)propionate; 2,4-DP-p, DMA salt & MCPP-P, DMA salt.
228–302	228	Riverdale Triplet (R) L.A. Selective Herbicide	Dicamba, dimethylamine salt; MCPP-P, DMA salt & 2,4-D, dimethylamine salt.
228–303	228	Tri-Power (R) Granular Weed Killer	MCPA, dimethylamine salt; Dicamba, dimethylamine salt & MCPP-P, DMA salt.
228–304	228	3-Way Weed and Feed with Tri-Power (R)	MCPA, dimethylamine salt; Dicamba, dimethylamine salt & MCPP-P, DMA salt.
228–305	228	Riverdale Dissolve (R) Granular Weed Killer	MCPP-P, DMA salt; 2,4-DP-p, DMA salt & 2,4-D, dimethylamine salt.
228–311	228	Riverdale Triplet Hi-D Selective Herbicide	MCPP-P, DMA salt; Dicamba, dimethylamine salt & 2,4-D, dimethylamine salt.
228–342	228	Dissolve Premium Granular Weed Killer	Dimethylamine 2-(2,4-dichlorophenoxy)propionate; 2,4-DP-p, DMA salt & MCPP-P, DMA salt.
228–348	228	Dissolve LBN Weed and Feed	2,4-D, dimethylamine salt; 2,4-DP-p, DMA salt & MCPP-P, DMA salt.

TABLE 1—PRODUCT CANCELLATIONS—Continued

Registration No.	Company No.	Product name	Active ingredients
228–372	228	Eclipse Selective Herbicide	2,4-DP-p, DMA salt; MCPA, dimethylamine salt & Clopyralid, monoethanolamine salt.
228–489	228	Triplet Low Odor Premium Lawn Weed Killer Concentrate.	Dicamba; 2,4-D, triisopropanolamine salt & MCPP-P, DMA salt.
228–490	228	Triplet Low Odor Premium Weed and Feed	Dicamba; 2,4-D, triisopropanolamine salt & MCPP-P, DMA salt.
228–492	228	Triplet Low Odor Premium Granular Weed Killer	Dicamba; 2,4-D, triisopropanolamine salt & MCPP-P, DMA salt.
228–493	228	Triplet Low Odor L.A. Granular Weed Killer	Dicamba; 2,4-D, triisopropanolamine salt & MCPP-P, DMA salt.
228- 503	228	Triplet Low Odor Premium Weed and Feed (18/5)	Dicamba; MCPP-P, DMA salt & 2,4-D, triisopropanolamine salt.
228–504	228	Triplet Low Odor Premium Weed and Feed (20/5)	Dicamba; MCPP-P, DMA salt & 2,4-D, triisopropanolamine salt.
228–505	228	Triplet Low Odor L.A. Premium Weed and Feed (16/5)	Dicamba; MCPP-P, DMA salt & 2,4-D, triisopropanolamine salt.
228–506	228	Triplet Low Odor L.A. Premium Weed and Feed (18/5)	Dicamba; MCPP-P, DMA salt & 2,4-D, triisopropanolamine salt.
228–507	228	Triplet Low Odor L.A. Premium Weed and Feed (20/5)	Dicamba; MCPP-P, DMA salt & 2,4-D, triisopropanolamine salt.
228–508	228	Triplet Low Odor Premium 8000 Lawn Weed Killer Concentrate.	Dicamba; 2,4-D, triisopropanolamine salt & MCPP-P, DMA salt.
228–511	228	Triplet Low Odor Premium Spot Lawn Weed Killer Ready-To-Spray.	Dicamba; 2,4-D, triisopropanolamine salt & MCPP-P, DMA salt.
228–593	228	NUP–08041 Ready-To-Use	Pyraflufen-ethyl; Dicamba; MCPP-P, DMA salt & 2,4-D, 2-ethylhexyl ester.
228–712	228	NUP–08040 Premium 8000 Lawn Weed Killer Concentrate.	Pyraflufen-ethyl; Dicamba; MCPP-P, DMA salt & Isooctyl(2-ethyl-4-methylpentyl) 2,4-dichlorophenoxyacetate.
279–3083	279	Pounce WSB Insecticide	Permethrin.
478–114	478	Real-Kill Vegetation Killer	Diquat dibromide.
499–567	499	Tygro Mite Fogger	Etoxazole.
538–168	538	Scotts Improved Super Turf Builder Plus 2	2,4-D & Mecoprop-P.
961–422	961	Preen Landscape Mulch Plus 3	Bifenthrin; Trifluralin & Isoxaben.
1007–99	1007	Nolvasan Solution	Chlorhexidine diacetate.
1007–100	1007	Fort Dodge Nolvasan S	Chlorhexidine diacetate.
1007–101	1007	Chlorhexidine Diacetate	Chlorhexidine diacetate.
5481–597	5481	Scepter Herbicide	3-Quinolinecarboxylic acid, 2-(4,5-dihydro-4-methyl-4-(1-methylethyl)-5-oxo-1H-imidazol-2-yl)-, monoammonium salt.
5481–598	5481	Scepter Herbicide Contains Surfactant	3-Quinolinecarboxylic acid, 2-(4,5-dihydro-4-methyl-4-(1-methylethyl)-5-oxo-1H-imidazol-2-yl)-, monoammonium salt.
5481–601	5481	Timeout Grass Growth Regulator and Weed Killer	3-Quinolinecarboxylic acid, 2-(4,5-dihydro-4-methyl-4-(1-methylethyl)-5-oxo-1H-imidazol-2-yl)-, monoammonium salt.
5481–603	5481	Time Out Plus Herbicide	3-Quinolinecarboxylic acid, 2-(4,5-dihydro-4-methyl-4-(1-methylethyl)-5-oxo-1H-imidazol-2-yl)-, monoammonium salt.
5481–604	5481	Imazaquin/Imazethapyr DG	Imazethapyr & Imazaquin.
5481–606	5481	Backdraft Herbicide	Glyphosate-isopropylammonium & Imazaquin.
5481–607	5481	Backdraft CP Herbicide	Imazaquin.
5481–608	5481	Backdraft SL Herbicide	Glyphosate-isopropylammonium & Imazaquin.
7969–268	7969	Acronis Fungicide Seed Treatment	Pyraclostrobin & Thiophanate-methyl.
7969–352	7969	Xemium 703 Fungicide ST	Fluxapyroxad & Pyraclostrobin.
7969–379	7969	Priaxor Plus Fungicide	Cyproconazole; Pyraclostrobin & Fluxapyroxad.
9688–93	9688	Chemsico Grass & Weed Killer A	Diquat dibromide.
9688–188	9688	Chemsico Herbicide Concentrate DG	Diquat dibromide & Glyphosate-isopropylammonium.
9688–191	9688	Chemsico Herbicide DG RTU	Diquat dibromide & Glyphosate-isopropylammonium.
9688–205	9688	Chemsico Herbicide Concentrate DG II	Glyphosate-isopropylammonium & Diquat dibromide.
9688–211	9688	Chemsico Herbicide Concentrate DT	Glyphosate & Diquat dibromide.
9688–213	9688	Chemsico Herbicide RTU DT	Diquat dibromide & Glyphosate.
9688–278	9688	Chemisco Herbicide Concentrate 1455	Sulfentrazone; Dicamba, dimethylamine salt; MCPP-P, DMA salt & MCPA, dimethylamine salt.
9688–279	9688	Chemisco RTU Herbicide 1456	Sulfentrazone; Dicamba, dimethylamine salt; MCPP-P, DMA salt & MCPA, dimethylamine salt.
9688–283	9688	Herbicide Concentrate 4B	Fluazifop-P-butyl; Dicamba, dimethylamine salt; Oxyfluorfen & Diquat dibromide.
9688–284	9688	Chemsico Herbicide RTU 4B	Diquat dibromide; Fluazifop-P-butyl; Dicamba, dimethylamine salt & Oxyfluorfen.

TABLE 1—PRODUCT CANCELLATIONS—Continued

Registration No.	Company No.	Product name	Active ingredients
9688–289	9688	Chemsico Pesticide Concentrate WI–N	2,4-D, dimethylamine salt; MCPP-P, DMA salt; Dicamba, dimethylamine salt & gamma-Cyhalothrin.
9688–290	9688	Chemsico Pesticide Concentrate WI–S	gamma-Cyhalothrin; Dicamba, dimethylamine salt; 2,4-D, dimethylamine salt & MCPP-P, DMA salt.
9688–310	9688	Chemsico Pesticide Granules WI–N	Dicamba, dimethylamine salt; MCPP-P, DMA salt; 2,4-D, dimethylamine salt & gamma-Cyhalothrin.
9688–311	9688	Chemsico Pesticide Granules WI–S	Dicamba, dimethylamine salt; MCPP-P, DMA salt; 2,4-D, dimethylamine salt & gamma-Cyhalothrin.
10324–57	10324	Maquat 42	Alkyl* dimethyl benzyl ammonium chloride *(60%C14, 30%C16, 5%C18, 5%C12) & Alkyl* dimethyl ethyl-benzyl ammonium chloride *(68%C12, 32%C14).
10324–71	10324	Maquat 280	Alkyl* dimethyl benzyl ammonium chloride *(60%C14, 30%C16, 5%C18, 5%C12) & Alkyl* dimethyl ethyl-benzyl ammonium chloride *(68%C12, 32%C14).
10324–158	10324	Maquat 2420 TBD–9	Alkyl* dimethyl benzyl ammonium chloride *(50%C14, 40%C12, 10%C16) & 1-Decanaminium, N-decyl-*N,N*-dimethyl-, chloride.
10324–160	10324	Maquat 2420 TNT	Alkyl* dimethyl benzyl ammonium chloride *(50%C14, 40%C12, 10%C16) & 1-Decanaminium, N-decyl-*N,N*-dimethyl-, chloride.
10324–164	10324	Maquat 256 PD	Alkyl* dimethyl ethylbenzyl ammonium chloride *(68%C12, 32%C14) & Alkyl* dimethyl benzyl ammonium chloride *(60%C14, 30%C16, 5%C18, 5%C12).
10324–176	10324	Maquat 2420 TBD–20	Alkyl* dimethyl benzyl ammonium chloride *(50%C14, 40%C12, 10%C16); 1-Decanaminium, N-decyl-*N,N*-dimethyl-, chloride & Hydrochloric acid.
34704–927	34704	Chaser Ultra 2 Selective Herbicide	2,4-DP-p, DMA salt; Fluroxypyr-meptyl & MCPA, dimethylamine salt.
42750–354	42750	Cloransulam 84% WDG	Cloransulam-methyl.
42750–355	42750	Cloransulam + Sulfentrazone WDG	Cloransulam-methyl & Sulfentrazone.
42750–356	42750	Cloransulam-methyl Technical	Cloransulam-methyl.
46515–16	46515	Super K-Gro Vegetation Killer Formula II	Diquat dibromide.
46515–32	46515	Super K-Gro All Purpose Garden Spray	Esfenvalerate.
47000–170	47000	Sureco Permethrin RTU Spray	Permethrin.
61282–54	61282	Bioguard GP Disinfectant Sanitizer	Alkyl* dimethyl benzyl ammonium chloride *(50%C14, 40%C12, 10%C16).
72726–1	72726	Poridon	Piperonyl butoxide & Permethrin.
ID–070001	10163	Onager Miticide	Hexythiazox.
ID–080013	10163	Onager Miticide	Hexythiazox.
MS–090005	279	Dragnet SFR Insecticide	Permethrin.
SC–080002	5905	Pounce 3.2 EC Insecticide	Permethrin.

Table 2 of this unit includes the names and addresses of record for all registrants of the products in Table 1 of this unit, in sequence by EPA company number. This number corresponds to the first part of the EPA registration numbers of the products listed in Table 1 of this unit.

TABLE 2—REGISTRANTS OF CANCELLED PRODUCTS

EPA Company No.	Company name and address
228	NuFarm Americas, Inc., 4020 Aerial Center Pkwy., Ste., 101, Morrisville, NC 27560.
279	FMC Corporation, 2929 Walnut Street, Philadelphia, PA 19104.
478	Realex, Div. of United Industries Corp., P.O. Box 142642, St Louis, MO 631140642.
499	BASF Corporation, 26 Davis Drive, P.O. Box 13528, Research Triangle Park, NC 27709–3528.
538	Scotts Company, The, 14111 Scottslawn Road, Marysville, OH 43041.
961	Lebanon Seaboard Corporation, 1600 East Cumberland Street, Lebanon, PA 17042.
1007	Zoetis, Inc., 333 Portage Street, Kalamazoo, MI 49007–4931.
5481	AMVAC Chemical Corporation, 4695 MacArthur Court, Suite 1200, Newport Beach, CA 92660–1706.
5905	Helena Agri-Enterprises, LLC, D/B/A Helena Chemical Comp, 225 Schilling Blvd., Suite 300, Collierville, TN 38017.
7969	BASF Corporation, 26 Davis Drive, P.O. Box 13528, Research Triangle Park, NC 27709–3528.
9688	Chemsico, A Division of United Industries Corp., P.O. Box 142642, St Louis, MO 63114–0642.
10163	BASF Corporation, 26 Davis Drive, P.O. Box 13528, Research Triangle Park, NC 27709–3528.
10324	Mason Chemical Company, 9075 Centre Pointe Dr., Suite 400, West Chester, OH 45069.
34704	Loveland Products, Inc., P.O. Box 1286, Greeley, CO 80632–1286.
42750	Albaugh, LLC, 1525 NE 36th Street, Ankeny, IA 50021.
46515	Celex, Division of United Industries Corp., P.O. Box 142642, St Louis, MO 63114–0642.
47000	Chem-Tech, Ltd., 620 Lesher Place, Lansing, MI 48912.
61282	Hacco, Inc., 620 Lesher Place, Lansing, MI 48912.

TABLE 2—REGISTRANTS OF CANCELLED PRODUCTS—Continued

EPA Company No.	Company name and address
72726	Neogen Corporation, 620 Lesher Place, Lansing, MI 48912.

III. Summary of Public Comments Received and Agency Response to Comments

The Agency received three public comments on the notice. The Agency does not believe that the comments submitted during the comment period merit further review or a denial of the requests for voluntary cancellation. NuFarm Americas, Inc, withdrew their two requests, 70596–9 & 15440–31 for cancellation.

IV. Cancellation Order

Pursuant to FIFRA section 6(f) (7 U.S.C. 136d(f)), EPA hereby approves the requested cancellations of the registrations identified in Table 1 of Unit II. Accordingly, the Agency hereby orders that the product registrations identified in Table 1 of Unit II are canceled. The effective date of the cancellations that are the subject of this notice is April 2, 2021. Any distribution, sale, or use of existing stocks of the products identified in Table 1 of Unit II in a manner inconsistent with any of the provisions for disposition of existing stocks set forth in Unit VI will be a violation of FIFRA.

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

Section 6(f)(1) of FIFRA (7 U.S.C. 136d(f)(1)) provides that a registrant of a pesticide product may at any time request that any of its pesticide registrations be canceled or amended to terminate one or more uses. FIFRA further provides that, before acting on the request, EPA must publish a notice of receipt of any such request in the **Federal Register**. Thereafter, following the public comment period, the EPA Administrator may approve such a request. The notice of receipt for this action was published for comment in the **Federal Register** of February 17, 2021 (86 FR 9931) (FRL–10019–58). The comment period closed on March 19, 2021.

VI. Provisions for Disposition of Existing Stocks

Existing stocks are those stocks of registered pesticide products which are currently in the United States and which were packaged, labeled, and released for shipment prior to the effective date of the cancellation action. The existing stocks provisions for the products subject to this order are as follows.

A. For Products 1007–99, 1007–100 and 1007–101

For products 1007–99, 1007–100 and 1007–101, the registrant has requested to sell its existing stocks of Chlorhexidine diacetate containing pesticides until May 31, 2021, the registrants will be permitted to sell and distribute existing stocks of these voluntarily canceled products until May 31, 2021. Thereafter, registrants will be prohibited from selling or distributing the identified products in Table 1 of Unit II, except for export consistent with FIFRA section 17 (7 U.S.C. 136o) or for proper disposal.

B. For Products 10324–57, 10324–71, 10324–158, 10324–160, 10324–164, 10324–176

For products 10324–57, 10324–71, 10324–158, 10324–160, 10324–164, 10324–176, the registrant has requested 18-months to sell existing stocks, registrants will be permitted to sell and distribute existing stocks of these voluntarily canceled products for 18-months after the effective date of the cancellation, which will be the date of publication of this cancellation order in the **Federal Register**.

C. For Product 61282–54

For product 61282–54, the registrant has requested 13-months to sell existing stocks, registrants will be permitted to sell and distribute existing stocks of the voluntarily canceled product for 13-months after the effective date of the cancellation, which will be the date of publication of this cancellation order in the **Federal Register**. Thereafter, registrants will be prohibited from selling or distributing these products identified in Table 1 of Unit II, except for export consistent with FIFRA section 17 (7 U.S.C. 136o) or for proper disposal.

For all other voluntary product cancellations listed in Table 1 of Unit II, the registrants may continue to sell and distribute existing stocks of these other products listed in Table 1 of Unit II until April 4, 2022, which is 1 year after the publication of the Cancellation Order in the **Federal Register**. Thereafter, the registrants are prohibited from selling or distributing the other products listed in Table 1, except for export in accordance with FIFRA section 17 (7 U.S.C. 136o), or proper disposal. Persons other than the registrants may sell, distribute, or use existing stocks of products listed in Table 1 of Unit II until existing stocks are exhausted, provided that such sale, distribution, or use is consistent with the terms of the previously approved labeling on, or that accompanied, the canceled products.

Authority: 7 U.S.C. 136 *et seq.*

Dated: March 26, 2021.

Marietta Echeverria,

Acting Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 2021–06845 Filed 4–1–21; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060–0645; FRS 18764]

Information Collection Being Submitted for Review and Approval to Office of Management and Budget

AGENCY: Federal Communications Commission.

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burdens, as required by the Paperwork Reduction Act (PRA) of 1995, the Federal Communications Commission (FCC or the Commission) invites the general public and other Federal Agencies to take this opportunity to comment on the following information collection. Pursuant to the Small Business Paperwork Relief Act of 2002, the FCC seeks specific comment on how it can further reduce the information collection burden for small business concerns with fewer than 25 employees.

DATES: Written comments and recommendations for the proposed information collection should be submitted on or before May 3, 2021.

ADDRESSES: Comments should be sent 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. Your comment must be

submitted into *www.reginfo.gov* per the above instructions for it to be considered. In addition to submitting in *www.reginfo.gov* also send a copy of your comment on the proposed information collection to Cathy Williams, FCC, via email to *PRA@fcc.gov* and to *Cathy.Williams@fcc.gov.* Include in the comments the OMB control number as shown in the **SUPPLEMENTARY INFORMATION** below.

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collection, contact Cathy Williams at (202) 418–2918. To view a copy of this information collection request (ICR) submitted to OMB: (1) Go to the web page *http://www.reginfo.gov/public/do/PRAMain,* (2) look for the section of the web page called ''Currently Under Review,'' (3) click on the downward-pointing arrow in the ''Select Agency'' box below the ''Currently Under Review'' heading, (4) select ''Federal Communications Commission'' from the list of agencies presented in the ''Select Agency'' box, (5) click the ''Submit'' button to the right of the ''Select Agency'' box, (6) when the list of FCC ICRs currently under review appears, look for the Title of this ICR and then click on the ICR Reference Number. A copy of the FCC submission to OMB will be displayed.

SUPPLEMENTARY INFORMATION: The Commission may not conduct or sponsor a collection of information unless it displays a currently valid Office of Management and Budget (OMB) control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid OMB control number.

As part of its continuing effort to reduce paperwork burdens, as required by the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–3520), the FCC invited the general public and other Federal Agencies to take this opportunity to comment on the following information collection. Comments are requested concerning: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimates; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology. Pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, see 44 U.S.C. 3506(c)(4), the FCC seeks specific comment on how it might ''further reduce the information collection burden for small business concerns with fewer than 25 employees.''

OMB Control Number: 3060–0645.

Title: Sections 17.4, 17.48 and 17.49, Antenna Structure Registration Requirements.

Form Number: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit entities, not-for-profit institutions and state, local or tribal government.

Number of Respondents: 16,050 respondents; 69,716 responses.

Estimated Time per Response: .1–.25 hours.

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

Obligation to Respond: Required to obtain or retain benefits. Statutory authority for this information collection is contained in Sections 4, 303, 48 Stat. 1066, 1082, as amended; 47 U.S.C. 154, 303.

Total Annual Burden: 9,889 hours.

Total Annual Cost: $59,460.

Privacy Impact Assessment: No impact(s).

Nature and Extent of Confidentiality: There is no need for confidentiality. However, respondents may request materials or information submitted to the Commission be withheld from public inspection under 47 CFR 0.459 of the Commission's rules.

Needs and Uses: The Commission is seeking Office of Management and Budget (OMB) approval for an extension of this information collection in order to obtain the full three-year approval. The Commission has adjusted its burden and cost estimates in order to update the collection burdens necessary to implement a uniform registration process as well as safe and effective lighting procedures for owners of antenna structures.

Section 17.4 includes third party disclosure requirements. Specifically, Section 17.4 requires the owner of any proposed or existing antenna structure that requires notice of proposed construction to the Federal Aviation Administration (FAA) to register the structure with the Commission. This includes those structures used as part of the stations licensed by the Commission for the transmission of radio energy, or to be used as part of a cable television head-end system. If a Federal Government antenna structure is to be used by a Commission licensee, the structure must be registered with the Commission. Section 17.4(f) provides that antenna structure owners shall immediately provide to all tenant licensees and permittees notification that the structure has been registered. This may be done by providing either a copy of Form 854 or a link to the FCC antenna structure registration website. This notification may be done electronically or via paper mail.

Section 17.4(g) requires antenna structure owners to display the Antenna Structure Registration Number in a conspicuous place that is readily visible near the base of the antenna. This rule specifically requires that the Antenna Structure Number be displayed so that it is conspicuously visible and legible from the publicly accessible area nearest the base of the antenna structure along the publicly accessible roadway or path. Where an antenna structure is surrounded by a perimeter fence, or where the point of access includes an access gate, the Antenna Structure Registration Number should be posted on the perimeter fence or access gate. Where multiple antenna structures having separate Antenna Structure Registration Numbers are located within a single fenced area, the Antenna Structure Registration Numbers must be posted both on the perimeter fence or access gate and near the base of each antenna structure. If the base of the antenna structure has more than one point of access, the rule requires that the Antenna Structure Registration Number be posted so that it is visible at the publicly accessible area nearest each such point of access. The registration number is issued to identify antenna structure owners in order to enforce the Congressionally mandated provisions related to the owners.

Sections 17.48 and 17.49 contain reporting and recordkeeping requirements. Section 17.48(a) requires that antenna structure owners immediately report outages of top steady burning lights or flashing antenna structure lights to the FAA, if not corrected within 30 minutes. Upon receipt of the outage notification, the FAA will issue a Notice to Airmen (NOTAM), which notifies aircraft of the outage. Consistent with FAA requirements, if a lighting outage cannot be repaired within the FAA's original NOTAM period, Section 17.48(a) further requires the antenna structure owner to notify the FAA of that fact and provide any needed updates to its estimated return-to-service date. The rule also requires antenna structure owners to continue to provide these updates to the FAA every NOTAM period until its lights are repaired.

Section 17.49 requires antenna structure owners to maintain a record of observed or otherwise known extinguishments or improper functioning of structure lights for two years and provide the records to the Commission upon request.

Federal Communications Commission.

Marlene Dortch,

Secretary, Office of the Secretary.

[FR Doc. 2021–06860 Filed 4–1–21; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[FR ID: 19038]

Privacy Act of 1974; Matching Program

AGENCY: Federal Communications Commission.

ACTION: Notice of a New Matching Program.

SUMMARY: In accordance with the Privacy Act of 1974, as amended (''Privacy Act''), this document announces the establishment of a computer matching program the Federal Communications Commission (''FCC'' or ''Commission'' or ''Agency'') and the Universal Service Administrative Company (USAC) will conduct with the Wisconsin Department of Health Services (DHS), and the Wisconsin Department of Revenue (DOR), (DHS and DOR collectively, Agencies). The purpose of this matching program is to verify the eligibility of applicants to and subscribers of the Emergency Broadband Benefit Program, which is administered by USAC under the direction of the FCC, or other federal programs that use qualification for the FCC's Lifeline Program as an eligibility criterion. More information about this program is provided in the **SUPPLEMENTARY INFORMATION** section below.

DATES: Written comments are due on or before May 3, 2021. This computer matching program will commence on May 3, 2021, and will conclude 18 months after becoming effective.

ADDRESSES: Send comments to Margaret Drake, FCC, 45 L Street NE, Washington, DC 20554, or to *Privacy@fcc.gov.*

FOR FURTHER INFORMATION CONTACT: Margaret Drake at 202–417–1707 or *Privacy@fcc.gov.*

SUPPLEMENTARY INFORMATION: The Emergency Broadband Benefit Program (EBBP) was established by Congress in the Consolidated Appropriations Act of 2021, Public Law 116–260, 134 Stat. 1182. EBBP is a program that will help low-income Americans obtain discounted broadband service and one-time co-pay for a connected device (laptop, desktop computer or tablet). This program was created specifically to assist American families' access to broadband, which has proven to be essential for work, school, and healthcare during the public health emergency that exists as a result of COVID–19. A household may qualify for the EBBP benefit under various criteria, including an individual qualifying for the FCC's Lifeline program.

In a Report and Order adopted on March 31, 2016 (81 FR 33026, May 24, 2016), the Commission ordered USAC to create a National Lifeline Eligibility Verifier (''National Verifier''), including the National Lifeline Eligibility Database (LED), that would match data about Lifeline applicants and subscribers with other data sources to verify the eligibility of an applicant or subscriber. The Commission found that the National Verifier would reduce compliance costs for Lifeline service providers, improve service for Lifeline subscribers, and reduce waste, fraud, and abuse in the program. The Consolidated Appropriations Act of 2021 directs the FCC to leverage the National Verifier to verify applicants' eligibility for EBBP. The purpose of this matching program is to verify the eligibility of EBBP applicants and subscribers by determining whether they receive Medicaid, Supplemental Nutrition Assistance Program (SNAP), or Supplemental Secure Income (SSI) benefits administered by the Wisconsin DHS or Wisconsin DOR. Under FCC rules, consumers receiving these benefits qualify for Lifeline discounts and also for EBBP benefits.

Participating Non-Federal Agencies

Wisconsin Department of Health Services (DHS), and the Wisconsin Department of Revenue (DOR)

Authority for Conducting the Matching Program

Consolidated Appropriations Act of 2021, Public Law 116–260, 134 Stat. 1182; 47 CFR part 54.

Purpose(s)

In the 2016 Lifeline Modernization Order (81 FR 33026, May 24, 2016), the FCC required USAC to develop and operate the National Verifier to improve efficiency and reduce waste, fraud, and abuse in the Lifeline program. The stated purpose of the National Verifier is ''to increase the integrity and improve the performance of the Lifeline program for the benefit of a variety of Lifeline participants, including Lifeline providers, subscribers, states, community-based organizations, USAC, and the Commission.'' 31 FCC Rcd 3962, 4006, para. 126. To help determine whether Lifeline applicants and subscribers are eligible for Lifeline benefits, the Order contemplates that the USAC-operated LED will communicate with information systems and databases operated by other Federal and State agencies. Id. at 4011–2, paras. 135–7.

The Consolidated Appropriations Act of 2021 directs the FCC to leverage the National Verifier to verify applicants' eligibility for EBBP. The purpose of this matching program is to verify the eligibility of EBBP applicants and subscribers by determining whether they meet an income verification standard or receive Medicaid, SNAP, or SSI benefits administered by the Wisconsin DHS or the Wisconsin DOR. Under FCC rules, consumers receiving these benefits qualify for Lifeline discounts and also for EBBP benefits.

Categories of Individuals

The categories of individuals whose information is involved in the matching program include, but are not limited to, those individuals who have applied for EBBP benefits; are currently receiving benefits; are individuals who enable another individual in their household to qualify for EBBP benefits; are minors whose status qualifies a parent or guardian for EBBP benefits; or are individuals who have received EBBP benefits.

Categories of Records

The categories of records involved in the matching program include, but are not limited to first name, last name, and last four digits of the applicant's Social Security Number. The National Verifier will transfer these data elements to the Wisconsin DHS and the Wisconsin DOR which will respond either ''yes'' or ''no'' that the individual meets the income verification standard or is enrolled in an EBBP-qualifying assistance program: State of Wisconsin's SNAP, Medicaid, or SSI.

System(s) of Records

The USAC records shared as part of this matching program reside in the EBBP system of records, FCC/WCB–3, Emergency Broadband Benefit Program, which was published in the **Federal Register** at 86 FR 11523 (Feb. 25, 2021).

Federal Communications Commission.

Marlene Dortch,

Secretary.

[FR Doc. 2021–06866 Filed 3–31–21; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL MARITIME COMMISSION

Sunshine Act Meeting

TIME AND DATE: April 07, 2021; 10:00 a.m.

PLACE: This meeting will be held by video-conference only.

STATUS: This meeting will be closed to the public.

MATTERS TO BE CONSIDERED:

1. Staff Briefing on U.S. Economic Conditions and Ocean Carrier Alliances
2. Fact Finding 29: International Ocean Transportation Supply Chain Engagement

CONTACT PERSON FOR MORE INFORMATION: JoAnne O'Bryant, Program Analyst, (202) 523–5725.

JoAnne O'Bryant,

Program Analyst.

[FR Doc. 2021–06957 Filed 3–31–21; 4:15 pm]

BILLING CODE 6730–02–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[Document Identifier: CMS–417 and CMS–209]

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Centers for Medicare & Medicaid Services, Health and Human Services (HHS).

ACTION: Notice.

SUMMARY: The Centers for Medicare & Medicaid Services (CMS) is announcing an opportunity for the public to comment on CMS' intention to collect information from the public. Under the Paperwork Reduction Act of 1995 (the PRA), federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information (including each proposed extension or reinstatement of an existing collection of information) and to allow 60 days for public comment on the proposed action. Interested persons are invited to send comments regarding our burden estimates or any other aspect of this collection of information, including the necessity and utility of the proposed information collection for the proper performance of the agency's functions, the accuracy of the estimated burden, ways to enhance the quality, utility, and clarity of the information to be collected, and the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

DATES: Comments must be received by June 1, 2021.

ADDRESSES: When commenting, please reference the document identifier or OMB control number. To be assured consideration, comments and recommendations must be submitted in any one of the following ways:

1. *Electronically.* You may send your comments electronically to *http://www.regulations.gov.* Follow the instructions for ''Comment or Submission'' or ''More Search Options'' to find the information collection document(s) that are accepting comments.

2. *By regular mail.* You may mail written comments to the following address: CMS, Office of Strategic Operations and Regulatory Affairs, Division of Regulations Development, Attention: Document Identifier/OMB Control Number: CMS–P–0015A, Room C4–26–05, 7500 Security Boulevard, Baltimore, Maryland 21244–1850.

To obtain copies of a supporting statement and any related forms for the proposed collection(s) summarized in this notice, you may make your request using one of following:

1. Access CMS' website address at *https://www.cms.gov/Regulations-and-Guidance/Legislation/PaperworkReductionActof1995/PRA-Listing.html.*

FOR FURTHER INFORMATION CONTACT: William N. Parham at (410) 786–4669.

SUPPLEMENTARY INFORMATION:

Contents

This notice sets out a summary of the use and burden associated with the following information collections. More detailed information can be found in each collection's supporting statement and associated materials (see **ADDRESSES**).

CMS–417 Hospice Request for Certification and Supporting Regulations

CMS–209 Laboratory Personnel Report (CLIA) and Supporting Regulations

Under the PRA (44 U.S.C. 3501–3520), federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. The term ''collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA requires federal agencies to publish a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension or reinstatement of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, CMS is publishing this notice.

Information Collection

1. *Type of Information Collection Request:* Extension of a currently approved collection; *Title of Information Collection:* Hospice Request for Certification and Supporting Regulations; *Use:* The Hospice Request for Certification Form is the identification and screening form used to initiate the certification process and to determine if the provider has sufficient personnel to participate in the Medicare program. The CMS–417 form is completed by existing hospices at the time of their recertification surveys, to update their certification information. *Form Number:* CMS–417 (OMB Control number: 0938–0313); *Frequency:* Annually; *Affected Public:* Private Sector—Business or other for-profits; *Number of Respondents:* 2,059; *Total Annual Responses:* 2,059; *Total Annual Hours:* 1,544 (For policy questions regarding this collection contact Caroline Gallaher at 410–786–8705.)

2. *Type of Information Collection Request:* Revision of a currently approved collection; *Title of Information Collection:* Laboratory Personnel Report (CLIA) and Supporting Regulations; *Use:* The information collected on this survey form is used in the administrative pursuit of the Congressionally-mandated program with regard to regulation of laboratories participating in CLIA. The surveyor will provide the laboratory with the CMS–209 form. While the surveyor performs other aspects of the survey, the laboratory will complete the CMS–209 by recording the personnel data needed to support their compliance with the personnel requirements of CLIA. The surveyor will then use this information in choosing a sample of personnel to verify compliance with the personnel requirements. Information on personnel qualifications of all technical personnel is needed to ensure the sample is representative of the entire laboratory. *Form Number:* CMS–209 (OMB control number 0938–0151); *Frequency:* Biennially; *Affected Public:* Private Sector—State, Local, or Tribal Governments; and Federal Government; *Number of Respondents:* 19,163; *Total Annual Responses:* 9,582; Total Annual Hours: 4,791. (For policy questions

regarding this collection contact Kathleen Todd at 410–786–3385.)

Dated: March 30, 2021.

William N. Parham, III,

Director, Paperwork Reduction Staff, Office of Strategic Operations and Regulatory Affairs.

[FR Doc. 2021–06873 Filed 4–1–21; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Cancer Institute Special Emphasis Panel; K22 Transition Career Development Award.

Date: May 18, 2021.

Time: 10:00 a.m. to 7:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Cancer Institute at Shady Grove, 9609 Medical Center Drive, Room 7W234, Rockville, Maryland 20850 (Telephone Conference Call).

Contact Person: Adriana Stoica, Ph.D., Scientific Review Officer, Resources and Training Review Branch, Division of Extramural Activities, National Cancer Institute, NIH, 9609 Medical Center Drive, Room 7W234, Rockville, Maryland 20850, 240–276–6368, *Stoicaa2@mail.nih.gov*.

Name of Committee: National Cancer Institute Special Emphasis Panel; Comprehensive Partnerships to Advance Cancer Health Equity (CPACHE) (U54).

Date: May 19, 2021.

Time: 10:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Cancer Institute at Shady Grove, 9609 Medical Center Drive, Room 7W108, Rockville, Maryland 20850 (Telephone Conference Call).

Contact Person: Clifford W. Schweinfest, Ph.D., Scientific Review Officer, Special Review Branch, Division of Extramural Activities, National Cancer Institute, NIH, 9609 Medical Center Drive, Room 7W108, Rockville, Maryland 20850, 240–276–6343, *schweinfestcw@mail.nih.gov*.

Name of Committee: National Cancer Institute Initial Review Group, Subcommittee I—Transition to Independence.

Date: June 9–10, 2021.

Time: 11:00 a.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Cancer Institute at Shady Grove, 9609 Medical Center Drive, Room 7W602, Rockville, Maryland 20850 (Telephone Conference Call).

Contact Person: Delia Tang, M.D., Scientific Review Officer, Resources and Training Review Branch, Division of Extramural Activities, National Cancer Institute, NIH, 9609 Medical Center Drive, Room 7W602, Rockville, Maryland 20850, 240–276–6456, *tangd@mail.nih.gov*.

Name of Committee: National Cancer Institute Special Emphasis Panel; Innovative Molecular and Cellular Analysis Technologies.

Date: June 16–17, 2021.

Time: 11:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Cancer Institute at Shady Grove, 9609 Medical Center Drive, Room 7W246, Rockville, Maryland 20850 (Telephone Conference Call).

Contact Person: Jun Fang, Ph.D., Scientific Review Officer, Research Technology & Contract Review Branch, Division of Extramural Activities, National Cancer Institute, NIH, 9609 Medical Center Drive, Room 7W246, Rockville, Maryland 20850, 240–276–5460, *jfang@mail.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.392, Cancer Construction; 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control, National Institutes of Health, HHS)

Dated: March 30, 2021.

Melanie J. Pantoja,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2021–06828 Filed 4–1–21; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Aging; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Aging Special Emphasis Panel; Hearing Loss and Aging.

Date: May 4, 2021.

Time: 9:30 a.m. to 12:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institute on Aging, Gateway Building, 7201 Wisconsin Avenue, Bethesda, MD 20892 (Video Meeting).

Contact Person: Anita H. Undale, MD, Ph.D., Scientific Review Officer, Scientific Review Branch, National Institute on Aging, National Institutes of Health, Gateway Building, Suite 2W200, 7201 Wisconsin Avenue, Bethesda, MD 20892, 301–827–7428, *anita.undale@nih.gov*.

Name of Committee: National Institute on Aging Special Emphasis Panel; Lysosomes and Alzheimer's.

Date: May 13, 2021.

Time: 11:30 a.m. to 2:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institute on Aging, Gateway Building, 7201 Wisconsin Avenue, Bethesda, MD 20892 (Video Meeting).

Contact Person: Anita H. Undale, MD, Ph.D., Scientific Review Officer, Scientific Review Branch, National Institute on Aging, National Institutes of Health, Gateway Building, Suite 2W200, 7201 Wisconsin Avenue, Bethesda, MD 20892, 301–827–7428, *anita.undale@nih.gov*.

Name of Committee: National Institute on Aging Special Emphasis Panel; Mechanisms of Atrophy.

Date: May 17, 2021.

Time: 12:00 p.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institute on Aging, Gateway Building, 7201 Wisconsin Avenue, Bethesda, MD 20892 (Video Meeting).

Contact Person: Birgit Neuhuber, Ph.D., Scientific Review Officer, Scientific Review Branch, National Institute on Aging, National Institutes of Health, 7201 Wisconsin Avenue, Gateway Building, Suite 2W200, Bethesda, MD 20892, 301–480–1266 *neuhuber@ninds.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.866, Aging Research, National Institutes of Health, HHS)

Dated: March 30, 2021.

Miguelina Perez,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2021–06826 Filed 4–1–21; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Alcohol Abuse and Alcoholism; Notice of Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of a meeting of the National Advisory Council on Alcohol Abuse and Alcoholism.

The meeting will be held as a virtual meeting and is open to the public. Individuals who plan to view the virtual meeting and need special assistance or other reasonable accommodations to view the meeting, should notify the Contact Person listed below in advance of the meeting. The open session will be videocast and can be accessed from the NIH Videocasting and Podcasting website (*http://videocast.nih.gov/*).

A portion of this 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 Advisory Council on Alcohol Abuse and Alcoholism.

Date: May 11, 2021.

Closed: 11:00 a.m. to 12:00 p.m.

Agenda: To review and evaluate grant applications.

Open: 12:15 p.m. to 4:30 p.m.

Agenda: Presentations and other business of the Council.

Place: National Institutes of Health, National Institute on Alcohol Abuse and Alcoholism, 6700B Rockledge Drive, Bethesda, MD 20817 (Virtual Meeting).

Contact Person: Abraham P. Bautista, Ph.D., Executive Secretary, National Advisory Council Director, Office of Extramural Activities, National Institute on Alcohol Abuse and Alcoholism, National Institutes of Health, 6700 B Rockledge Drive, Room 1458, MSC 6902, Bethesda, MD 20892, 301–443–9737, *bautista@mail.nih.gov*.

Name of Committee: National Advisory Council on Alcohol Abuse and Alcoholism, National Cancer Advisory Board, and National Advisory Council on Drug Abuse.

Date: May 12, 2021.

Open: 11:00 a.m. to 3:30 p.m.

Agenda: Presentation of NIAAA, NCI, and NIDA Director's Update, Scientific Reports, and other topics within the scope of the Collaborative Research on Addiction at NIH (CRAN).

Place: National Institutes of Health, National Institute on Alcohol Abuse and Alcoholism, 6700B Rockledge Drive, Bethesda, MD 20817 (Virtual Meeting).

Contact Person: Abraham P. Bautista, Ph.D., Executive Secretary, National Advisory Council Director, Office of Extramural Activities, National Institute on Alcohol Abuse and Alcoholism, National Institutes of Health, 6700 B Rockledge Drive, Room 1458, MSC 6902, Bethesda, MD 20892 301–443–9737 *bautista@mail.nih.gov*.

Paulette S. Gray, Ph.D., Director, Division of Extramural Activities, National Cancer Institute, National Institutes of Health, 9609 Medical Center Drive, Room 7W444, Bethesda, MD 20892, 240–276–6340, *grayp@dea.nci.nih.gov*.

Susan Weiss, Ph.D., Director, Division of Extramural Research, National Institute on Drug Abuse, National Institutes of Health, 6001 Executive Boulevard, NSC, Room 5274, 301–443–6487, *sweiss@nida.nih.gov*.

Any interested person may file written comments with the committee by forwarding the statement to the Contact Person listed on this notice. The statement should include the name, address, telephone number and when applicable, the business or professional affiliation of the interested person.

Information is also available on the Institute's/Center's home page: *http://www.niaaa.nih.gov/AboutNIAAA/AdvisoryCouncil/Pages/default.aspx,* where an agenda and any additional information for the meeting will be posted when available.

(Catalogue of Federal Domestic Assistance Program Nos. 93.271, Alcohol Research Career Development Awards for Scientists and Clinicians; 93.272, Alcohol National Research Service Awards for Research Training; 93.273, Alcohol Research Programs; 93.891, Alcohol Research Center Grants; 93.701, ARRA Related Biomedical Research and Research Support Awards., National Institutes of Health, HHS)

Dated: March 30, 2021.

Melanie J. Pantoja,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2021–06827 Filed 4–1–21; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–7034–C–14]

7-Day Notice of Emergency Approval of an Information Collection: Collection of Required Information for CARES Act Quarterly Reporting OMB Control No.: 2535–XXXX

AGENCY: Office of the Chief Information Officer, HUD.

ACTION: Correction.

SUMMARY: This notice is a correction to the notice that HUD publish on March 24, 2021 at 86 FR 15696. In accordance with the Paperwork Reduction Act of 1995, HUD has requested from the Office of Management and Budget (OMB) emergency approval of the information collection described in this notice.

DATES: *Comments Due Date:* April 9, 2021.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *OIRA_submission@omb.eop.gov* or *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.

FOR FURTHER INFORMATION CONTACT: Anna Guido, Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 7th Street SW, Washington, DC 20410; email Anna Guido at *Anna.P.Guido@hud.gov* or telephone 202–402–5535. Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339. This is not a toll-free number. Copies of available documents submitted to OMB may be obtained from Ms. Guido.

SUPPLEMENTARY INFORMATION: This notice informs the public that HUD has submitted to OMB a request for approval of the information collection described in Section A.

A. Overview of Information Collection

Title of Information Collection: Collection of Required Information for CARES Act Quarterly Reporting.

OMB Approval Number: Pending.

Type of Request: New.

Form Number: Forms associated to collections listed below.

Description of the need for the information and proposed use:

On March 27, 2020, the ''Coronavirus Aid, Relief, and Economic Security Act'' (CARES Act) was signed into law. The CARES Act provided $12.4 billion in additional FY2020 funding for HUD to prevent, prepare for, and respond to COVID–19, including providing additional resources to meet emerging needs, support existing rental assistance programs, and to support capacity and oversight. The award provides HUD recipients the flexibility to meet evolving COVID–19 needs in their respective communities, including extending operational hours, increasing staffing hours, purchasing additional equipment, enhancing workforce training and capacity development, and providing critical housing services to people during this pandemic. The U.S.

Department of Housing and Urban Development requests a clearance of this information collection request to allow for immediate outreach to Large Covered Funds recipients, defined as recipients of CARES Grant amounts over $150,000. This information collection request will enable the U.S. Department of Housing and Urban Development (HUD) to collect the quarterly information required to be in compliance with the requirements outlined in section 15011 of the CARES Act. Reporting provisions include that not later than 10 days after the end of each calendar quarter, each covered recipient shall submit to the agency and the committee a report that contains (A) the total amount of large covered funds received from the agency; (B) the amount of large covered funds received that were expended or obligated for each project or activity; (C) a detailed list of all projects or activities for which large covered funds were expended or obligated, including (i) the name of the project or activity; (ii) a description of the project or activity; and (iii) the estimated number of jobs created or retained by the project or activity.

The Director of the Office of Management and Budget, in consultation with the Secretary of the Treasury, the Administrator of the Small Business Administration, and the Chairperson of the Council of Economic Advisors, shall submit to the appropriate congressional committees and publicly release on the website established under section 15010(g) quarterly reports that detail the impact of programs funded through large covered funds on employment, estimated economic growth, and other key economic indicators, including information about impacted industries.

This information will be reported by the grant recipients to the program offices within HUD, then aggregated with the related information already being captured today. This aggregated information will form the required quarterly reporting for CARES Act funds that HUD submits to the Pandemic Response Accountability Committee (PRAC).

For those programs where this would be an increase in the frequency of the information currently reported by moving from annual to quarterly reporting, the actual use of the information currently collected is the quarterly submission file to the PRAC.

Respondents (i.e. affected public): The respondents for this information collection request are the HUD program recipients of large covered funds provided by the CARES ACT, as defined in the above section.

Estimated Number of Respondents: There are an estimated 5,000 potential respondents across all HUD programs based on the obligations data from *USASpending.gov* as of March 4, 2021.

Frequency of Response:

This information is to be captured quarterly, as outlined in the reporting requirements section of the CARES Act.

Related Forms and Processes Currently in Place:

The following table outlined the related forms that will be impacted as part of this collection effort:

OMB control #	Name
2506–0133	Grant Application Submission, Recordkeeping, and Reporting.
2506–0089	EMERGENCY SOLUTIONS GRANT DATA COLLECTION.
2506–0077	Community Development Block Grant (CDBG) Entitlement Program.
2577–0226	Public Housing Agency Plan (PHA) Plan.
2577–0218	Indian Housing Block Grants (IHBG) Program Reporting.
2577–0029	Allocation of Operating Fund Grant Under the Operating Fund Formula: Data Collection.
2502–0619	COVID–19 Supplemental Payment Requests.
2529–0033	Fair Housing Initiatives Program Grant.

B. Solicitation of Public Comment

This notice is soliciting comments from members of the public and affected parties concerning the collection of information described in Section A on the following:

(1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) If the information will be processed and used in a timely manner;

(3) The accuracy of the agency's estimate of the burden of the proposed collection of information;

(4) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(5) Ways to minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

HUD encourages interested parties to submit comment in response to these questions.

C. Authority

Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35.

Anna Guido,

Department Reports Management Officer, Office of the Chief Information Officer.

[FR Doc. 2021–06850 Filed 4–1–21; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–7034–N–15]

30-Day Notice of Proposed Information Collection: HUD Research, Evaluation, and Demonstration Cooperative Agreements; OMB Number: 2528–0299

AGENCY: Office of the Chief Information Officer, HUD.

ACTION: Notice.

SUMMARY: HUD is seeking approval from the Office of Management and Budget (OMB) for the information collection described below. In accordance with the Paperwork Reduction Act, HUD is requesting comment from all interested parties on the proposed collection of information. The purpose of this notice is to allow for 30 days of public comment.

DATES: *Comments Due Date:* May 3, 2021.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *OIRA_submission@omb.eop.gov* or *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.

FOR FURTHER INFORMATION CONTACT: Anna P. Guido, Reports Management

Officer, QMAC, Department of Housing and Urban Development, 451 7th Street SW, Washington, DC 20410; email her at *Anna.P.Guido@hud.gov* or telephone 202–402–5535. This is not a toll-free number. Person with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339. Copies of available documents submitted to OMB may be obtained from Ms. Guido.

SUPPLEMENTARY INFORMATION: This notice informs the public that HUD is seeking approval from OMB for the information collection described in Section A.

The **Federal Register** notice that solicited public comment on the information collection for a period of 60 days was published on November 19, 2020 at 85 FR 73189.

A. Overview of Information Collection

Title of Information Collection: HUD Research, Evaluation, and Demonstration Cooperative Agreements.

OMB Approval Number: 2528–0299.

Type of Request: Revision.

Form Number: NA

Description of the need for the information and proposed use: PD&R intends to establish cooperative agreements with qualified for-profit and nonprofit research organizations and universities to conduct research, demonstrations, and data analysis. PD&R will issue a Notice of Funding Availability (NOFA) describing the cooperative research program. Management of PD&R cooperative agreements for research and demonstrations will require periodic reporting of progress. This information collection will be limited to recipients of cooperative agreements.

Information collection	Number of respondents	Frequency of response	Responses per annum	Burden hour per response	Annual burden hours	Hourly cost per response	Cost
Quarterly Reports	18	4	72	3	216	$45.00	$9,720
Other Reports	18	1	18	1	18	45.00	810
Recordkeeping	18	1	18	3	54	45.00	2,430
Total					288		12,960

B. Solicitation of Public Comment

This notice is soliciting comments from members of the public and affected parties concerning the collection of information described in Section A on the following:

(1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) If the information will be processed and used in a timely manner;

(3) The accuracy of the agency's estimate of the burden of the proposed collection of information;

(4) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(5) Ways to minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

HUD encourages interested parties to submit comment in response to these questions.

C. Authority

Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35.

Anna P. Guido,

Department Reports Management Officer, Office of the Chief Information Officer.

[FR Doc. 2021–06794 Filed 4–1–21; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

[201A2100DD/AAKC001030// A0A501010.999900; OMB Control Number 1076–0094]

Agency Information Collection Activities; Law and Order on Indian Reservations—Marriage and Dissolution Applications

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice of information collection; request for comment.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, we, the Bureau of Indian Affairs (BIA) are proposing renew an information collection.

DATES: Interested persons are invited to submit comments on or before June 1, 2021.

ADDRESSES: Please send written comments on this information collection request (ICR) to Ms. Tricia Tingle, Associate Director, Tribal Justice Support Directorate, 1001 Indian School Road NW, Albuquerque, NM 87104; or by email to *Tricia.Tingle@bia.gov*. Please reference OMB Control Number 1076–0094 in the subject line of your comments.

FOR FURTHER INFORMATION CONTACT: To request additional information about this ICR, contact Ms. Tricia Tingle by email at *Tricia.Tingle@bia.gov.* You may also view the ICR at *http://www.reginfo.gov/public/do/PRAMain.*

SUPPLEMENTARY INFORMATION: In accordance with the Paperwork Reduction Act of 1995, we provide the general public and other Federal agencies with an opportunity to comment on new, proposed, revised, and continuing collections of information. This helps us assess the impact of our information collection requirements and minimize the public's reporting burden. It also helps the public understand our information collection requirements and provide the requested data in the desired format.

We are soliciting comments on the proposed ICR that is described below. We are especially interested in public comment addressing the following issues: (1) Is the collection necessary to the proper functions of the BIA; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the BIA enhance the quality, utility, and clarity of the information to be collected; and (5) how might the BIA minimize the burden of this collection on the respondents, including through the use of information technology.

Comments that you submit in response to this notice are a matter of public record. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we

cannot guarantee that we will be able to do so.

Abstract: The Bureau of Indian Affairs (BIA) is seeking renewal of the approval for the information collection conducted under 25 CFR 11.600(c) and 11.606(c). This information collection allows the Clerk of the Court of Indian Offenses to collect personal information necessary for a Court of Indian Offenses to issue a marriage license or dissolve a marriage. Courts of Indian Offenses have been established on certain Indian reservations under the authority vested in the Secretary of the Interior by 5 U.S.C. 301 and 25 U.S.C. 2, 9, and 13, which authorize appropriations for ''Indian judges.'' Tribes retain jurisdiction over Indians, exclusive of State jurisdiction, but in the absence of Tribal courts exercising that jurisdiction, the Bureau of Indian Affairs been required to establish Courts of Indian Offenses to protect tribal members and other Indians. Accordingly, Courts of Indian Offenses exercise jurisdiction under 25 CFR 11. Domestic relations are governed by 25 CFR 11.600, which authorizes the Court of Indian Offenses to conduct and dissolve marriages.

In order to obtain a marriage licenses in a Court of Indian Offenses, applicants must provide the six items of information listed in 25 CFR 11.600(c), including identifying information, such a Social Security number, information on previous marriage, relationship to the other applicant, and a certificate of the results of any medical examination required by applicable Tribal ordinances or the laws of the State in which the Indian country under the jurisdiction of the Court of Indian Offenses is located. To dissolve a marriage, applicants must provide the six items of information listed in 25 CFR 11.606(c), including information on occupation and residency (to establish jurisdiction), information on whether the parties have lives apart for at least 180 days or if there is serious marital discord warranting dissolution, and information on the children of the marriage and whether the wife is pregnant (for the court to determine the appropriate level of support that may be required from the non-custodial parent). (25 CFR 11.601) Two forms are used as part of this information collection, the Marriage License Application and the Dissolution of Marriage Application.

Title of Collection: Law and Order on Indian Reservations—Marriage & Dissolution Applications.

OMB Control Number: 1076–0094.

Form Number: None.

Type of Review: Extension without change of a currently approved collection.

Respondents/Affected Public: Individuals.

Total Estimated Number of Annual Respondents: 260 per year, on average.

Total Estimated Number of Annual Responses: 260 per year, on average.

Estimated Completion Time per Response: 15 minutes.

Total Estimated Number of Annual Burden Hours: 65 hours.

Respondent's Obligation: Required to Obtain or Retain a Benefit.

Frequency of Collection: On occasion.

Total Estimated Annual Nonhour Burden Cost: $6,500 (approximately $25 per application for processing fees).

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 authority for this action is the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq*).

Elizabeth K. Appel,

Director, Office of Regulatory Affairs and Collaborative Action—Indian Affairs.

[FR Doc. 2021–06793 Filed 4–1–21; 8:45 am]

BILLING CODE 4337–15–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–GRD–22583; GPO Deposit Account 4311–H2]

Addition of Thermal Features Within Valles Caldera National Preserve to the List of Significant Thermal Features Within Units of the National Park System

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: This notice announces the addition of the thermal features within Valles Caldera National Preserve, New Mexico, to the list of significant thermal features within units of the National Park System under the Geothermal Steam Act. This designation will provide additional protection of these important thermal features, as well as opportunities for enhanced collaboration among Federal Agencies, scientists, and resource managers.

FOR FURTHER INFORMATION CONTACT: Ms. Julia F. Brunner, Chief, Energy and Minerals Branch, Geologic Resources Division, National Park Service, P.O. Box 25287, Lakewood, CO 80225–0287; telephone 303–969–2012.

SUPPLEMENTARY INFORMATION: On December 28, 2016, the National Park Service (NPS) published for public review and comment a proposal to add the thermal features within Valles Caldera National Preserve (Preserve), New Mexico, to the list of significant thermal features within units of the National Park System in accordance with the Geothermal Steam Act as amended (see 81 FR 95632 (Dec. 28, 2016)). During the public comment period, which closed on January 27, 2017, the NPS received comments from 65 individuals, American Indian tribes, and nongovernmental organizations. The purpose of this notice is to summarize the proposal, review the comments that the NPS received on the proposal, and update the list of park units containing significant thermal features by adding the Valles Caldera to the list as a volcanic feature, and adding the hydrothermal system within the Preserve as a hydrothermal feature.

The Geothermal Steam Act (GSA), as amended, authorizes the Secretary of the Interior (Secretary) to issue geothermal leases for exploration, development and utilization of geothermal resources within available public lands administered by the Department, as well as on federal lands administered by the Department of Agriculture or other surface managing agencies, and on lands that have been conveyed by the United States subject to a reservation to the United States of the geothermal resources in those lands (30 U.S.C. 1002). The Bureau of Land Management (BLM) administers the geothermal resources program pursuant to its regulations at 43 CFR parts 3000, 3200, and 3280. On federal lands managed by the Agriculture Department or used for a federal water power project, the BLM must first obtain the consent of the Secretary of Agriculture or Secretary of Energy, respectively, before it may issue any leases for geothermal resources underlying those lands (see 30 U.S.C. 1014(b)).

The GSA provides that lands administered by the National Park Service (NPS) are not subject to geothermal leasing, thereby prohibiting geothermal leasing and development in park units (*see* 30 U.S.C. 1002, 1014(c)). In addition, the Preserve has been expressly withdrawn from the operation of the geothermal leasing laws (16 U.S.C. 698v–11(b)(9)).

The GSA directs the Secretary to maintain a list of significant thermal features within units of the National Park System (see 30 U.S.C. 1026(a)(1)). The GSA specified sixteen park units already identified as containing such features for the list, and also authorized the Secretary to add significant thermal features within these or other park units

to the list. 30 U.S.C. 1026(a)(2). Such a determination includes consideration of four significance criteria as well as a notice and public comment process (see 30 U.S.C. 1026(a)(2)–(3)). The NPS published its proposed notice for evaluation of the Valles Caldera National Preserve and its thermal features under these significance criteria in the **Federal Register** on December 28, 2016, in compliance with the GSA process.

For listed significant thermal features, the GSA requires

(1) The Secretary to maintain a monitoring program, including a research program carried out by NPS in cooperation with the U.S. Geological Survey (30 U.S.C. 1026(b));

(2) the Secretary to determine, on the basis of scientific evidence, and subject to notice and public comment, whether exploration, development, or utilization of the land subject to a lease application would be reasonably likely to result in a significant adverse effect on any listed feature and, if so, not to issue the lease (30 U.S.C. 1026(c));

(3) the Secretary to determine, on the basis of scientific evidence, whether the exploration, development, or utilization of the land subject to a lease or drilling permit is reasonably likely to adversely affect any listed features and, if so, to include stipulations in the lease or drilling permit to protect those features (30 U.S.C. 1026(d)); and

(4) the Secretary of Agriculture to consider the effects on significant thermal features within units of the National Park System in determining whether to consent to leasing on national forest lands or other lands administered by the Department of Agriculture (30 U.S.C. 1026(e)).

Summary of NPS Proposal: In its December 28, 2016, notice proposing to add the Preserve, with its volcanic caldera and hydrothermal features (81 FR 95632), the NPS first described the relevant history of the GSA and the bases for previous listings of significant thermal features within park units (see 81 FR 95632). The NPS then proposed to define ''thermal feature'' as the surface manifestation of subsurface thermal resources, systems, or activity, and to use the words ''hydrothermal'' and ''volcanic'' as a simple description of the type of underlying thermal activity that resulted in how the feature appears on the earth's surface.

The NPS also proposed to remain consistent with its previous significant thermal feature determinations by interpreting the GSA's four significance criteria as follows:

(1) *Size, extent, and uniqueness*—NPS does not establish lower or upper limits on the size or extent of a feature. Each feature is identified according to its existing surface dimensions. For a feature to be considered significant under this criterion, it is identified as unique to the region, the nation, or, in some cases, the world.

(2) *Scientific and geologic significance*—NPS considers the feature ''significant'' when the feature has been identified as contributing to geologic, biological, or other scientific knowledge compared with similar features in other areas or makes a significant contribution to the understanding of similar systems.

(3) *The extent to which such features remain in a natural, undisturbed condition*—Under this criterion, no limits are established for amount or degree of development. The feature may be significant if it remains in a natural, relatively undisturbed condition. Modifications or improvements may be acceptable if: The alterations were necessary to preserve a developed feature; modifications intended to accommodate or improve public enjoyment of the feature are judged to be consistent or compatible with the intent of the enabling legislation; and so long as disturbances or developments, if any, have not affected the subsurface thermal regime.

(4) *Significance of thermal features to the authorized purposes for which the park unit was created*—NPS considers features significant if they were the basis for establishment of the unit (*i.e.,* the feature was specifically identified in the enabling legislation) or if they are consistent with the statutory purposes for which the area was set aside.

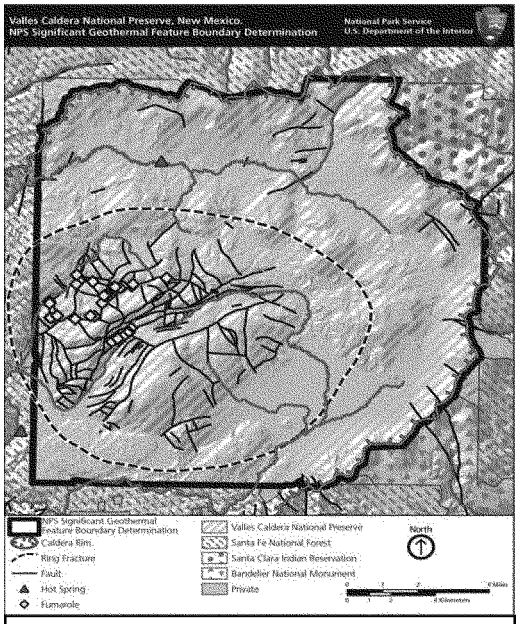

Figure 1. Map of the Valles Caldera National Preserve showing the boundary of the designated significant thermal feature.

The NPS then proposed to add two significant thermal features within the Preserve to the list. The first such feature was the vast majority of the caldera itself, as a single volcanic feature. Excepted from the proposal was the portion of the caldera (10–15%) that lies outside the Preserve's western and southern boundaries. The NPS also proposed to add various hydrothermal features within the Preserve to the list as a significant hydrothermal feature.

Summary of Comments Received on the Proposal

Sixty-five comments on the proposal were submitted to the NPS via the PEPC website at *https://parkplanning.nps.gov/vallego.* The comments were submitted by 57 members of the public (mostly local or state residents), six New Mexico-based nongovernmental organizations, and representatives of two American Indian tribes located in northern New Mexico.

Sixty-four of the 65 commenters fully and enthusiastically supported the NPS proposal. Many of the commenters expressed concern that geothermal development around the Preserve may adversely affect the unique and world-class thermal features, the wildlife, the extraordinary landscape, and the recreation opportunities within the Preserve. Commenters also expressed concern that geothermal development around the Preserve may affect local water supply, exacerbate costly and detrimental invasive species in the area, and increase the potential for earthquakes, which could prove catastrophic due to the large amounts of plutonium stored at the nearby Los Alamos National Laboratory. The comments from the American Indian tribes explained that the protection of the natural and cultural resources in the Preserve is vital for maintaining their traditional cultural practices, and specifically that the NPS's preservation of thermal features throughout the Preserve is necessary for the protection, preservation, and restoration of these resources and practices. For all of these reasons, the commenters supported the addition of the Preserve's thermal features to the list, which will result in increased information and consultation among the NPS, BLM, the Forest Service, and stakeholders prior to any leasing and development-related decisions in the area surrounding the Preserve, and therefore will enhance protection of the significant thermal features within the Preserve.

Only one commenter opposed the proposal, suggesting that the NPS should develop a geothermal power plant within the Preserve instead. This action, however, would be inconsistent with the purpose of the Preserve, the input from local and state communities, and applicable laws, regulations, and policies.

None of the commenters questioned the scientific underpinnings of the designation or the consistency of the features with the four significance criteria.

Consideration of Significance Criteria for Thermal Features Proposed

Caldera Thermal Feature

The entirety of the volcanic caldera that lies within the Preserve is hereby added to the list as one significant thermal feature. The Preserve's thermal feature is part of a geothermal landscape that extends beyond the Preserve's perimeter boundary, although thermal features located outside that boundary are not included. The magma chamber beneath the Preserve is located under the southwest portion of the caldera, with surface expressions of thermal features primarily in the vicinity of Redondo Canyon, Sulphur Creek Canyon, and Alamo Canyon. Currently, approximately ⅓ of the Preserve has been surveyed. In addition, a detailed geologic and hydrologic GIS map has been developed. See *http://geoinfo.nmt.edu/repository/data/2011/20110002/GM-79_mapsheet.pdf.* (Fig. 5).

The subsurface heat that remains of the volcanic activity allows meteoric waters percolating down from the surface to become heated, which is expressed at the surface in several places within and in the vicinity of the caldera in the form of hydrologic hot springs or, in dry seasons, fumaroles or steam vents. The Preserve contains numerous thermal features (single or grouped contiguous features such as hot spring pools) in four geographic areas containing surface waters (Redondo Creek, Alamo Canyon, Sulphur Creek Canyon, and San Antonio Creek), as well as seasonal fumaroles and acid ponds or springs. These thermal features are also separately proposed for inclusion to the list as significant thermal (hydrothermal) features.

The NPS analyzed and determined that the following significance criteria are applicable to every component of the caldera feature and volcanic system within the Preserve.

(1) *Size, extent, and uniqueness:* The approximately 89,000-acre Preserve encompasses a 1.25 million year-old dormant volcanic caldera (13.7 miles in diameter) that lies in the center of the Jemez Mountains in northern New Mexico. The youngest post-caldera volcanic eruption (Banco Bonito Rhyolite lava flow) occurred about 68 thousand years ago. The Valles Caldera that formed 1.25 million years ago is the younger of two calderas within the Preserve, and lies to the southwest of the comparably sized but now nearly imperceptible Toledo Caldera (1.62 Ma). Each caldera produced about 95 mi^3 (400 km^3) of ash flow tuff collectively known as the Bandelier Tuff. Numerous geothermal features occur throughout the Jemez Mountains. The Preserve does not encompass the entirety of the Valles Caldera depression itself—a portion of the northwestern caldera lies outside the boundary of the park unit to the west and south of the Preserve, in the Santa Fe National Forest. The subsurface volcanic heat anomaly or thermal system similarly extends outside of the park unit to the west.

(2) *Scientific and geologic significance:* Water, steam, and soil samples from these sites have been and continue to be collected by scientists conducting geothermal and planetary research, and by scientists searching for living organisms in extreme environments. Because of its geologic uniqueness, NPS staff will use this area for public education, as the site illustrates the exceptional geologic values of the Jemez Mountains—sulfuric acid fumaroles and mud pots, and chloride-bicarbonate hot springs and cold springs—all characteristics of geologically active volcanic formations.

(3) *The extent to which the feature remains in a natural, undisturbed condition:* The San Antonio Warm Springs and the Sulphur Springs-Alamo Canyon areas have been moderately to significantly disturbed by development (recreational structures, containment ponds, and other improvements as well as several geothermal exploration wells drilled between 1970–1984, most of which have been permanently capped and reclaimed) that occurred prior to federal acquisition of the Preserve in 2000; however, such alterations have not changed the thermal regime. Other features, such as acid ponds and fumaroles, are undisturbed in natural habitats. Despite some past geothermal exploration and drilling, the caldera itself as a volcanic feature remains unaffected in the operation of its volcanic thermal regime, and thus remains in a natural, undisturbed condition.

(4) *Significance to the authorized purposes for which the park unit was created:* The Preserve was established ''to protect, preserve, and restore the fish, wildlife, watershed, natural, scientific, scenic, geologic, historic, cultural, archaeological, and

recreational values of the area'' (Pub. L. 113–291, Sec. 3043(b)(1)). The caldera is an important natural, cultural, geologic resource, contributes to scientific understanding of the geology of the region, and also contributes to the other values for which this NPS unit was established.

Hydrothermal Features

Like Yellowstone National Park, which is also a caldera, the Preserve contains multiple hydrothermal features that are related to the magma source. In addition, the dynamic nature of this area means that additional hydrothermal features may develop over time. These thermal features (single or grouped contiguous features such as hot spring pools) occur in four geographic areas containing surface waters (Redondo Creek, Alamo Canyon, Sulphur Creek Canyon, and San Antonio Creek), as well as seasonal fumaroles and acid ponds or springs. These hydrothermal features are therefore also added to the list as one significant thermal feature. The NPS analyzed the following significance criteria for each feature listed and found them to be applicable to each feature within the system.

(1) *Size, extent, and uniqueness: Size*—The hydrothermal features within the Preserve are located on approximately 500 acres.

Extent—(a) San Antonio Warm Spring is a single spring discharging potable hot water at 101 °F, over which 20th-century ranchers built an enclosed concrete bath adjacent to a nearby cabin. This spring is located in the north-central portion of the Preserve adjacent to the segment of the San Antonio Creek within the Valle San Antonio.

(b) In addition, the Preserve has numerous hot and cold sulfuric acid fumaroles, particularly in the Alamo Canyon and Redondo Canyon regions. There are at least 29 fumaroles mapped in the Redondo and Alamo canyon areas; see map at: *http://geoinfo.nmt.edu/repository/data/2011/20110002/GM-79_mapsheet.pdf.* Others may occur but have not been sampled or surveyed.

(c) The Sulphur Springs area contains the highest temperature hot springs (189 °F) in the state of New Mexico; this area includes at least 7 significant named hot springs, mud pots and fumaroles, all of which are thermally anomalous; several other acid springs and gas vents are cold. The springs include such colorfully descriptive names as Kidney and Stomach Trouble Spring, Footbath Spring, Ladies' Bathhouse Spring, Laxitive [sic] Spring, Turkey Spring, Lemonade Spring, and Electric Spring. Some of these were historically referred to as Main Bathhouse Spring, Sour Spring, and Alum Spring.

(d) Valle Grande spring: The easternmost named spring within the Preserve is the Valle Grande Spring (14 °C), although topographic maps indicate numerous other surrounding unnamed springs.

Uniqueness—These springs and fumaroles (some of which take the form of bubbling mudpots in wet seasons) are indicators of subsurface thermal processes, are unique to the region, and are easily accessible for study and research; there are no comparable features in the State of New Mexico. The only other places in the United States that have such systems are Yellowstone National Park in Wyoming, Montana, and Idaho; Lassen Volcano, the Long Valley Caldera, and The Geysers in California, the latter two having thermal regimes degraded by geothermal production; and a very small system at Dixie Valley, Nevada.

(2) *Scientific and geologic significance:* Water, steam, and soil samples from these sites have been and continue to be collected by scientists conducting geothermal and planetary research, and by scientists searching for living organisms in extreme environments. Because of its geologic uniqueness, NPS staff will use this area for public education, as the site illustrates the exceptional geologic values of the Jemez Mountains—sulfuric acid fumaroles, mud pots, hot springs, cold springs—all characteristics of geologically active volcanic formations.

(3) *The extent to which the feature remains in a natural, undisturbed condition:* San Antonio Warm Spring has been slightly to moderately disturbed by construction of recreational structures, such as a cabin and a small enclosed pool, that occurred prior to federal acquisition of the Preserve in 2000, but these were constructed to support the recreational use of the feature. However, such alterations have not changed the thermal regime. The overall hydrothermal system activity and temperature thus remain unchanged and in a natural, undisturbed state. The Sulphur Springs-Alamo Canyon areas were moderately to significantly disturbed by development (recreational structures, containment ponds, and other improvements as well as several geothermal exploration wells (drilled between 1970–1984); however, such alterations have not changed the thermal regime. Other features, including the Redondo Creek fumaroles (steam vents in dry season and mud pots or minor springs in wet seasons) are undisturbed in natural habitats. The overall hydrothermal system remains unchanged because it was never subjected to full-scale commercial development.

(4) *Significance to the authorized purposes for which the unit was created:* While the enabling legislation for the Preserve does not specifically refer to hydrothermal features or their use by the public, the presence and preservation of such features as surface expressions of the subsurface volcanic activity is consistent with the Preserve's purposes and uses. The hydrothermal features are important natural, cultural, and geologic resources associated with the Preserve and the Jemez Mountains, contribute to scientific understanding of the geology of the region, and also contribute to the other values for which this system unit was established.

Conclusion: Because the Valles Caldera meets all four criteria as a volcanic feature, and because the hydrothermal system of the Preserve meets all four criteria as a hydrothermal feature, they are added to the list of significant thermal features in accordance with the GSA (see updated list in Figure 2).

The addition of the Preserve as a park unit with significant thermal features does not automatically prohibit geothermal leasing, development, or related activities in the area surrounding the Preserve. Instead, this action simply requires the NPS, BLM, USGS, and the U.S. Forest Service to work closely together and with other stakeholders to utilize available scientific, cultural, and other information to ensure that geothermal leasing, permitting, or development will not result in adverse effects on the significant thermal features of Valles Caldera National Preserve.

References

A list of references considered during this determination is available in the notice of proposal (81 FR 95632).

Fig.2. Updated List of Park Units Containing Significant Thermal Features in Accordance With Geothermal Steam Act, 30 U.S.C. 1026(a)

1. Aniakchak National Monument and Preserve (feature: Aniakchak Caldera (volcanic)).
2. Bering Land Bridge National Preserve (feature: Serpentine Hot Springs (hydrothermal)).
3. Big Bend National Park (including that portion of the Rio Grande National Wild and Scenic River located in the Park) (features: Spring No. 1 (hydrothermal), Spring No. 4 (hydrothermal), Hot Springs (hydrothermal)).
4. Crater Lake National Park (hydrothermal feature at bottom of lake).
5. Gates of the Arctic National Park and Preserve (feature: Reed River Hot Springs (hydrothermal)).
6. Haleakala National Park (feature: Haleakala Crater (volcanic)).
7. Hawaii Volcanoes National Park (features: Steaming Bluff and Sulpher Banks (hydrothermal), Kilauea Caldera and Halemaumau Crater (volcanic), Kilauea Iki Crater (volcanic), Great Crack and Southwest Rift (volcanic), East Rift Zone (volcanic), Chain of Craters (volcanic), Mauna Ulu (volcanic), Puu Oo (volcanic), Mokuaweoweo Caldera and Northeast Rift Zone of Mauna Loa (volcanic)).
8. Hot Springs National Park (feature: Hot Springs (hydrothermal)).
9. John D. Rockefeller, Jr. Memorial Parkway (feature: Huckleberry Hotsprings (hydrothermal)).
10. Katmai National Park and Preserve (feature: Novarupta and vicinity (volcanic)).
11. Lake Clark National Park and Preserve (features: Redoubt Volcano and Iliamna Volcano (volcanic)).
12. Lake Mead National Recreational Area (features: Black Canyon Hotsprings (hydrothermal), Blue Point Spring (hydrothermal), and Rogers Spring (hydrothermal)).
13. Lassen Volcanic National Park (feature: Lassen hydrothermal system including Bumpass Hell, Little Hot Springs Valley, Sulpher Works, Devils Kitchen, Boiling Springs Lake, Drakesbad Hot Springs, and Terminal Geyser)).
14. Mount Rainier National Park (features: Mount Rainier (volcanic), fumaroles at the summit of Mount Rainier and associated Ice Caves (hydrothermal), and Ohanapecosh Springs (hydrothermal)).
15. Valles Caldera National Preserve (features: Valles Caldera (volcanic) and hydrothermal system (hydrothermal)).
16. Wrangell-St. Elias National Park and Preserve (feature: Wrangell Volcanoes (volcanic)).
17. Yellowstone National Park (features: entire park including Old Faithful and approximately 10,000 geysers and hotsprings).

Shannon A. Estenoz,

Principal Deputy Assistant Secretary for Fish and Wildlife and Parks Exercising the Delegated Authority of the Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 2021–06806 Filed 4–1–21; 8:45 am]

BILLING CODE 4312–52–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. TA–201–77]

Fresh, Chilled, or Frozen Blueberries

Determination

On the basis of the information in the investigation, the United States International Trade Commission (''Commission'') determines pursuant to section 202(b) of the Trade Act of 1974 that fresh, chilled, or frozen blueberries [1] are not being imported into the United States in such increased quantities as to be a substantial cause of serious injury, or threat thereof, to the domestic industry producing an article like or directly competitive with the imported article.

Background

Following receipt of a request from the United States Trade Representative on September 29, 2020, the Commission instituted this investigation pursuant to section 202 of the Trade Act of 1974 to determine whether fresh, chilled, or frozen blueberries are being imported into the United States in such increased quantities as to be a substantial cause of serious injury, or the threat thereof, to the domestic industry producing an article like or directly competitive with the imported article. Notice of the institution of the Commission's investigation and of the scheduling of public hearings to be held in connection therewith was given by publishing the notice in the **Federal Register** (85 FR 64162 (October 9, 2020), amended at 85 FR 66360 (October 19, 2020)). In light of the restrictions on access to the Commission building due to the COVID–19 pandemic, the Commission conducted its public hearing in connection with the injury phase of the investigation through written testimony and video conference on January 12, 2021.[2] All persons who requested the opportunity were permitted to participate.

The Commission transmitted its determination in this investigation to the President on March 29, 2021. The views of the Commission are contained in USITC Publication 5164 (March 2021), entitled *Fresh, Chilled, or Frozen Blueberries: Investigation No. TA–201–77.*

By order of the Commission.

[1] For Customs purposes, the products covered by the investigation are provided for under Harmonized Tariff Schedule of the United States (''HTSUS'') statistical reporting numbers 0810.40.0024; 0810.40.0026; 0810.40.0029; 0811.90.2024; 0811.90.2030; and 0811.90.2040. These HTSUS numbers are provided for convenience, and the written description of the scope is dispositive.

[2] The Commission changed the starting time of this hearing from 9:30 a.m. as originally scheduled to 9:00 a.m. in a subsequent notice (86 FR 3195 (January 14, 2021)).

Issued: March 29, 2021.

Lisa Barton,

Secretary to the Commission.

[FR Doc. 2021–06756 Filed 4–1–21; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731–TA–1092 (Second Review)]

Diamond Sawblades and Parts Thereof From China

Determination

On the basis of the record [1] developed in the subject five-year review, the United States International Trade Commission (''Commission'') determines, pursuant to the Tariff Act of 1930 (''the Act''), that revocation of the antidumping duty order on diamond sawblades and parts thereof from China would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.

Background

The Commission instituted this review on August 3, 2020 (85 FR 46719) and determined on November 6, 2020 that it would conduct an expedited review (86 FR 10597, February 22, 2021).

The Commission made this determination pursuant to section 751(c) of the Act (19 U.S.C. 1675(c)). It completed and filed its determination in this review on March 30, 2021. The views of the Commission are contained in USITC Publication 5176 (March 2021), entitled *Diamond Sawblades and Parts Thereof from China: Investigation No. 731–TA–1092 (Second Review).*

By order of the Commission.

Issued: March 30, 2021.

Lisa Barton,

Secretary to the Commission.

[FR Doc. 2021–06852 Filed 4–1–21; 8:45 am]

BILLING CODE 7020–02–P

[1] The record is defined in § 207.2(f) of the Commission's Rules of Practice and Procedure (19 CFR 207.2(f)).

INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 731–TA–1014 and 1016 (Third Review)]

Polyvinyl Alcohol From China and Japan; Determinations

On the basis of the record [1] developed in the subject five-year reviews, the United States International Trade Commission (''Commission'') determines, pursuant to the Tariff Act of 1930 (''the Act''), that revocation of the antidumping duty orders on polyvinyl alcohol from China and Japan would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.

Background

The Commission instituted these reviews on April 1, 2020 (85 FR 18271) and determined on July 6, 2020 that it would conduct full reviews (85 FR 42005, July 13, 2020). Notice of the scheduling of the Commission's reviews and of a public hearing to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the **Federal Register** on September 22, 2020 (85 FR 59545). Subsequently, the Commission cancelled its previously scheduled hearing following a request on behalf of domestic producers (86 FR 8034, February 3, 2021).

The Commission made these determinations pursuant to section 751(c) of the Act (19 U.S.C. 1675(c)). It completed and filed its determinations in these reviews on March 29, 2021. The views of the Commission are contained in USITC Publication 5173 (March 2021), entitled *Polyvinyl Alcohol from China and Japan: Investigation Nos. 731–TA–1014 and 1016 (Third Review).*

By order of the Commission.

Issued: March 29, 2021.

Lisa Barton,

Secretary to the Commission.

[FR Doc. 2021–06781 Filed 4–1–21; 8:45 am]

BILLING CODE 7020–02–P

[1] The record is defined in § 207.2(f) of the Commission's Rules of Practice and Procedure (19 CFR 207.2(f)).

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–1258]

Certain Smart Thermostat Systems, Smart HVAC Systems, Smart HVAC Control Systems, and Components Thereof; 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 February 26, 2021, under section 337 of the Tariff Act of 1930, as amended, on behalf of EcoFactor, Inc. of Palo Alto, California. A supplement was filed on March 18, 2021. The complaint, as supplemented, 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 smart thermostat systems, smart HVAC systems, smart HVAC control systems, and components thereof by reason of infringement of certain claims of U.S. Patent No. 8,423,322 (''the '322 patent''); U.S. Patent No. 8,019,567 (''the '567 patent''); U.S. Patent No. 10,612,983 (''the '983 patent''); U.S. Patent No. 8,596,550 (''the '550 patent'') and U.S. Patent No. 8,886,488 (''the '488 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 March 30, 2021, *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, 5, and 7 of the '322 patent; claims 1, 2, 5, 7, 15, 16, 19, and 20 of the '567 patent; claims 1–3, and 16–18 of the '983 patent; claims 1, 5–7, 9, 13–15, and 17 of the '550 patent and claims 1, 2, 5, 7–10, and 13–15 of the '488 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 ''smart thermostat systems, smart HVAC systems, smart HVAC control systems, and components thereof'';

(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: EcoFactor, Inc., 441 California Avenue, Number 2, Palo Alto, CA 94301.

(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:

ecobee Ltd., 25 Dockside Dr., Suite 600, Toronto, ON M5A 0B5, Canada

ecobee, Inc., 25 Dockside Dr., Suite 600, Toronto, ON M5A 0B5, Canada

Google LLC, 1600 Amphitheatre Parkway, Mountain View, California 94043

Carrier Global Corporation, 13995 Pasteur Boulevard, Palm Beach Gardens, Florida 33418

Emerson Electric Co., 8000 W Florissant Ave., P.O. Box 4100, St. Louis, Missouri 63136

Honeywell International Inc., 300 South Tryon Street, Charlotte, NC 28202

Resideo Technologies, Inc., 901 E 6th Street, Austin, Texas 78702

Johnson Controls International, PLC, One Albert Quay, Cork, Ireland, T12 X8N6

Siemens Industry, Inc., 1000 Deerfield Pkwy., Buffalo Grove, IL 60089

Siemens AG, Werner-von-Siemens-Str. 1, 80333 Munich, Germany

(3) 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: March 30, 2021.

Lisa Barton,

Secretary to the Commission.

[FR Doc. 2021–06846 Filed 4–1–21; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. 20–34]

Brenton D. Goodman, M.D.; Decision and Order

On August 19, 2020, the Assistant Administrator, Diversion Control Division, Drug Enforcement Administration (hereinafter, DEA or Government), issued an Order to Show Cause (hereinafter, OSC) to Brenton D. Goodman, M.D. (hereinafter, Respondent) of Lafayette, Indiana. OSC, at 1. The OSC proposed the revocation of Respondent's Certificate of Registration No. FG7707409. It alleged that Respondent is without ''authority to handle controlled substances in the State of Indiana, the state in which [Respondent is] registered with the DEA.'' OSC, at 2 (citing 21 U.S.C. 824(a)(3)).

Specifically, the OSC alleged that Respondent's Indiana medical license and Indiana controlled substances registration had both expired, leaving Respondent without authority to handle controlled substances in the State of Indiana. *Id.*

The OSC notified Respondent of the right to request a hearing on the allegations or to submit a written statement, while waiving the right to a hearing, the procedures for electing each option, and the consequences for failing to elect either option. *Id.* (citing 21 CFR 1301.43). The OSC also notified Respondent of the opportunity to submit a corrective action plan. OSC, at 3 (citing 21 U.S.C. 824(c)(2)(C)).

By letter dated September 22, 2020, Respondent timely requested a hearing.[1] Hearing Request, at 1. According to the Hearing Request, Respondent denied that his Indiana medical license was expired and claimed that his Indiana controlled substance registration was in the administrative process of being renewed. *Id.* He further requested that the hearing be delayed ''to afford Registrant a reasonable opportunity to be heard before the Indiana Board of Pharmacy'' regarding the renewal of his Indiana controlled substance registration. *Id.*

The Office of Administrative Law Judges put the matter on the docket and assigned it to Chief Administrative Law Judge John J. Mulrooney (hereinafter, the Chief ALJ). The Chief ALJ issued a Briefing Order, dated September 23,

[1] The Hearing Request was filed on September 22, 2020. Order for Supplemental Briefing, at 1. I find that the Government's service of the OSC was adequate and that the Hearing Request was timely filed on September 22, 2020.

2020, directing the parties to brief the Government's allegation that the Respondent lacked state authority and denying the Respondent's request for a stay. Order Granting Summary Disposition and Recommended Rulings, Findings of Fact, Conclusions of Law, and Decision dated January 13, 2021 (hereinafter, Recommended Decision or RD), at 2. The Government timely complied with the Briefing Order by filing a Motion for Summary Disposition (hereinafter, Government MSD) on October 8, 2020. *Id.* In its motion, the Government presented evidence that demonstrated that Respondent lacks authority to handle controlled substances in Indiana, the state in which he is registered with the DEA and argued that, therefore, DEA must revoke his registration. Government MSD, at 3. Respondent answered the Government MSD in a Response in Opposition to Government's Motion for Summary Disposition (hereinafter, Respondent's Response) in which Respondent argued that ''certain procedural and substantive defects'' of the Government's argument ''cannot be ignored.'' Respondent's Response, at 2–3. Specifically, Respondent argued that in the course of proceedings, the Government's theory of the case had changed such that Respondent was ''deprived of due process guaranteed to him under the United States Constitution and the applicable statutes, rules and regulations.'' *Id.* at 3. Additionally, Respondent objected to the Government's introduction of what Respondent claimed was ''hearsay evidence that lacks appropriate foundation for authenticity.'' *Id.* at 7. Finally, the Respondent argued that the Government had not demonstrated that he had had his medical license and controlled substance registration ''suspended, revoked, or denied by competent State authority,'' and argued that the limitation on his ''access'' to controlled substances did not limit his prescribing authority. *Id.* at 9.

On January 7, 2021, Respondent filed a ''Belated Notice of Registrant's Current Status'' (hereinafter, Status Update), which stated that the Indiana Board of Pharmacy had issued a Decision regarding Respondent's Indiana controlled substances registration and argued that the DEA proceeding was now moot. Status Update, at 1. The Status Update included a copy of the Board's Decision, which stated that it was ''adopt[ing] the June 28, 2019 Medical Board Order.'' Status Update Exhibit 1, at 1.

On January 13, 2021, the ALJ granted the Government MSD finding that because ''the Respondent does not have authority as a practitioner in Indiana, there is no other fact of consequence for this tribunal to decide in order to determine whether or not he is entitled to hold a [DEA Certificate of Registration].'' RD, at 7. The ALJ recommended that Respondent's DEA Certificate of Registration be revoked based on his lack of state authority. *Id.* By letter dated February 28, 2021, the ALJ certified and transmitted the record to me for final Agency action. In that letter, the ALJ advised that neither party filed exceptions.

I issue this Decision and Order based on the entire record before me. 21 CFR 1301.43(e). I make the following findings of fact.

Findings of Fact

Respondent's DEA Registration

Respondent is the holder of DEA Certificate of Registration No. FG7707409 at the registered address of 5165 McCarty Lane, Lafayette, IN 47905. Government MSD, Exhibit 1 (Certification of Registration Status), at 1. Pursuant to this registration, Respondent is authorized to dispense controlled substances in schedules II through V as a practitioner. *Id.* Respondent's registration expires on September 30, 2021. *Id.*

The Status of Respondent's State License

At the time DEA issued its OSC, Respondent's Indiana medical license and Indiana controlled substances registration were both expired. MSD, at 3. Respondent has since renewed his state medical license; [2] however, under the terms of a previous order, Respondent's medical license is on indefinite probation. *Id.* Specifically, the Government submitted as evidence an Order issued by the Indiana Medical Board on June 28, 2019, which placed Respondent's Indiana medical license on indefinite probation and included a provision that prohibited Respondent from having ''access to Schedules I through V Controlled Substances, except for medications prescribed to him by a treating physician for Respondent's recovery or medical needs'' for the first two years of probation. MSD, Exhibit 4 (Indiana Medical Board Order),[3] at 3. Respondent further submitted evidence that the Indiana Board of Pharmacy had adopted the Indiana Medical Board Order, which included all of the provisions of his probation, including the same restriction on access to controlled substances. Status Update, Exhibit 1, at 1.

According to Indiana's online records, of which I take official notice, both Respondent's Indiana medical license and Indiana controlled substances registration are listed as on indefinite probation.[4] *http://www.mylicense.in.gov/everification* (last visited date of signature of this Order).

Accordingly, I find that Respondent is currently restricted from access to controlled substances in Indiana, the state in which Respondent is registered with the DEA.

Discussion

Pursuant to 21 U.S.C. 824(a)(3), the Attorney General is authorized to suspend or revoke a registration issued under section 823 of the Controlled Substances Act (hereinafter, CSA) ''upon a finding that the registrant . . . has had his State license or registration

[2] Respondent notes that the Government added to its foundation for revocation the fact that Respondent's medical license is currently on probation after the OSC was issued, and argues that the addition of this fact at this stage impeded Respondent's Constitutional right to due process of law. Respondent's Response, at 3–6. Although it is noted that the Indiana Medical Board's Order was in effect at the time of the issuance of the OSC, the status of Respondent's medical license and controlled substances registration at the time was expired, and it was the intervening act of Respondent on or about September 14, 2020, to renew his controlled substances registration, following the issuance of the OSC, that changed his status. *See* Respondent's Response, Exhibit (Respondent's Affidavit), at 1. The agency has frequently determined that an OSC does not need to be amended to account for loss of state authority grounds. *See e.g., Hatem M. Ataya, M.D.,* 81 FR 8221, 8244 (2016). Furthermore, by virtue of Respondent's arguments in his response, I find that Respondent has had an opportunity to contest both the legal and factual predicates of the Government's case. *See e.g., Duane* v. *Dep't of Defense,* 275 F.3d 988, 993–96 (10th Cir. 2002); *Abercrombie* v. *Clarke,* 920 F.2d 1351, 1360 (7th Cir. 1990), *cert. denied,* 502 U.S. 809, 112 S.Ct. 52, 116 L.Ed.2d 29 (1991))(''Absent evidence that a party is misled by an administrative complaint, resulting in 'prejudicial error,' we shall not reverse.'')

[3] It is noted that, although Respondent challenges some of the Government's supporting documentation, he does not appear to challenge the legitimacy or text of this Order, which is the primary document in the Government's evidence on which I am relying in this decision. *See* Respondent's Response, at 3 and Respondent's Affidavit.

[4] Under the Administrative Procedure Act, an agency ''may take official notice of facts at any stage in a proceeding—even in the final decision.'' United States Department of Justice, Attorney General's Manual on the Administrative Procedure Act 80 (1947) (Wm. W. Gaunt & Sons, Inc., Reprint 1979). Pursuant to 5 U.S.C. 556(e), ''[w]hen an agency decision rests on official notice of a material fact not appearing in the evidence in the record, a party is entitled, on timely request, to an opportunity to show the contrary.'' Accordingly, Respondent may dispute my finding by filing a properly supported motion for reconsideration of findings of fact within fifteen calendar days of the date of this Order. Any such motion and response shall be filed and served by email to the other party and to Office of the Administrator, Drug Enforcement Administration at *dea.addo.attorneys@dea.usdoj.gov.*

suspended . . . [or] revoked . . . by competent State authority and is no longer authorized by State law to engage in the . . . dispensing of controlled substances.'' With respect to a practitioner, the DEA has also long held that the possession of authority to dispense controlled substances under the laws of the state in which a practitioner engages in professional practice is a fundamental condition for obtaining and maintaining a practitioner's registration. *See, e.g., James L. Hooper, M.D.,* 76 FR 71,371 (2011), *pet. for rev. denied,* 481 F. App'x 826 (4th Cir. 2012); *Frederick Marsh Blanton, M.D.,* 43 FR 27,616, 27,617 (1978).

This rule derives from the text of two provisions of the CSA. First, Congress defined the term ''practitioner'' to mean ''a physician . . . or other person licensed, registered, or otherwise permitted, by . . . the jurisdiction in which he practices . . . , to distribute, dispense, . . . [or] administer . . . a controlled substance in the course of professional practice.'' 21 U.S.C. 802(21). Second, in setting the requirements for obtaining a practitioner's registration, Congress directed that ''[t]he Attorney General shall register practitioners . . . if the applicant is authorized to dispense . . . controlled substances under the laws of the State in which he practices.'' 21 U.S.C. 823(f). Because Congress has clearly mandated that a practitioner possess state authority in order to be deemed a practitioner under the CSA, the DEA has held repeatedly that revocation of a practitioner's registration is the appropriate sanction whenever he is no longer authorized to dispense controlled substances under the laws of the state in which he practices.[5] *See, e.g., James L. Hooper,* 76 FR at 71,371–72; *Sheran Arden Yeates, M.D.,* 71 FR 39,130, 39,131 (2006); *Dominick A. Ricci, M.D.,* 58 FR 51,104, 51,105 (1993); *Bobby Watts, M.D.,* 53 FR 11,919, 11,920 (1988); *Frederick Marsh Blanton,* 43 FR at 27,617.

Respondent makes two primary arguments related to the Indiana Board of Medicine's Order: (1) That the Indiana Board of Medicine has no authority to restrict Respondent's prescribing, Respondent's Response, at 9–10; and (2) that the term ''access'' in the Indiana Board of Medicine Order was ''in reference to controlled substances that Affiant would be in possession of for personal use,'' Respondent's Response, Respondent's Affidavit, at 2. In regard to the first argument, Respondent submitted evidence that the Indiana Board of Pharmacy had adopted the same terms of probation; and therefore, I find this argument to be mooted because the entity that Respondent claimed had the appropriate jurisdiction has now acted. *See* Status Update, Exhibit 1, at 1. Further, I agree with the Chief ALJ's finding that Respondent's interpretation of the Indiana Board of Medicine's restrictions on his ''access'' to controlled substances as permitting him to continue to prescribe controlled substances contradicts the plain language of such terms. RD, at 5 (citing Respondent's Response, at 3, 6, 9). The Board's Order states that Respondent shall not have ''access to Schedules I through V Controlled Substances, except for medications prescribed to him by a treating physician for Respondent's recovery or medical needs.'' MSD, Exhibit 4, at 3.

> The plain language of this provision makes the drafters' intent crystal clear: the limitations regarding his access to controlled substances do not apply to controlled medications prescribed for his benefit, but apply to any controlled substances he may encounter outside that scenario (*to wit,* medications that he might have occasion to prescribe or administer). Thus, the Respondent's position that the [Indiana Medical Board] used the term ''access'' in that clause only to describe controlled medications that might come ''in[to his] possession [ ] for personal use'' makes no sense, because the plain language of that clause already addresses drugs prescribed for his treatment. A contrary interpretation would indulge the unlikely supposition that the [Indiana Medical Board] was making a provision designed to regulate controlled substances he possesses without a prescription (*i.e.,* abuse them).
>
> RD, at 5.[6]

Furthermore, because ''the controlling question'' in a proceeding brought under 21 U.S.C. 824(a)(3) is whether the holder of a practitioner's registration ''is currently authorized to handle controlled substances in the state,'' *Hooper,* 76 FR at 71,371 (quoting *Anne Lazar Thorn,* 62 FR 12,847, 12,848 (1997)), the Agency has also long held that revocation is warranted even where a practitioner is still challenging the underlying action or where the state action is temporary. *Kambiz Haghighi, M.D.,* 85 FR 5989 (2020); *Bourne Pharmacy,* 72 FR 18,273, 18,274 (2007); *Wingfield Drugs,* 52 FR 27,070, 27,071 (1987). Thus, it is of no consequence that the action is temporary. What is consequential is my finding that Respondent is not currently authorized to dispense controlled substances in Indiana, the state in which he is registered.

According to Indiana statute, ''[e]very person who dispenses or proposes to dispense any controlled substance within Indiana must have a registration issued by the [Indiana Board of Pharmacy] in accordance with the board's rules.'' Ind. Code § 35–48–3–3(b) (2021). ''Dispense'' means ''to deliver a controlled substance to an ultimate user or research subject by or pursuant to the lawful order of a practitioner and includes the prescribing, administering, packaging, labeling, or compounding necessary to prepare the substance for that delivery.'' Ind. Code § 35–28–1–12 (2021).

Additionally, as discussed herein, there is direct evidence on the record that the terms of Respondent's probation explicitly prohibit him from access to controlled substances in Indiana. *See* Status Update, Exhibit 1, at 1; *see also* MSD, Exhibit 4.

Here, the undisputed evidence in the record is that Respondent currently lacks authority to dispense controlled substances in Indiana. As already discussed, a physician must hold a controlled substances registration to dispense a controlled substance in Indiana. Thus, because Respondent lacks authority to handle controlled substances in Indiana, Respondent is not eligible to maintain a DEA registration. Accordingly, I will order

[5] I reject the Respondent's arguments related to the distinction between expiration and suspension or revocation of the registrant's state authority as inconsistent with long-established DEA decisions, including the case to which he cited in support of his argument. *See William D. Levitt,* 64 FR 49,822, 49,823 (1999) (because ''state authorization was clearly intended to be a prerequisite to DEA registration, Congress could not have intended for DEA to maintain a registration if a registrant is no longer authorized by the state in which he practices to handle controlled substances due to the expiration of his state license.'') Additionally, Respondent's argument is irrelevant, because the facts on the record here demonstrate that both the Pharmacy Board and the Medical Board of Indiana placed a restriction on Respondent's access to controlled substances.

[6] I find that the Chief ALJ's reading is further bolstered by the additional terms of the Indiana Medical Board's Order, which state that once the initial two year probation period has ended and Respondent has met certain conditions, his medical license will be then be subject to a ''subsequent probation,'' which includes that ''Respondent shall submit Quarterly Reports and Inspect Reports for both himself as a patient and as a prescribing physician for this Board's review.'' MSD, Exhibit 4, at 6. If the Indiana Medical Board intended for Respondent to be able to prescribe under the restricted access provision in the first two years of his probation, it would make little sense for the terms to have omitted a similar provision requiring such reports on his prescribing. The fact that the reporting provision appears as the probation becomes more lenient, further demonstrates that the Indiana Medical Board did not intend for Respondent to be able to prescribe for the beginning two years of probation.

that Respondent's DEA registration be revoked.

Order

Pursuant to 28 CFR 0.100(b) and the authority vested in me by 21 U.S.C. 824(a), I hereby revoke DEA Certificate of Registration No. FG7707409 issued to Brenton D. Goodman. Further, pursuant to 28 CFR 0.100(b) and the authority vested in me by 21 U.S.C. 823(f), I hereby deny any pending application of Brenton D. Goodman to renew or modify this registration, as well as any other application of Brenton D. Goodman, for additional registration in Indiana. This Order is effective May 3, 2021.

D. Christopher Evans,

Acting Administrator.

[FR Doc. 2021–06801 Filed 4–1–21; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Kendrick E. Duldulao, M.D.; Decision and Order

On January 29, 2021, the Assistant Administrator, Diversion Control Division, Drug Enforcement Administration (hereinafter, Government), issued an Order to Show Cause (hereinafter, OSC) to Kendrick E. Duldulao, M.D. (hereinafter, Registrant) of Tampa, Florida. OSC, at 1. The OSC proposed the revocation of Registrant's Certificate of Registration No. FD0005593. It alleged that Registrant is without ''authority to handle controlled substances in Florida, the state in which [Registrant is] registered with DEA.'' OSC, at 2 (citing 21 U.S.C. 824(a)(3)).

Specifically, the OSC alleged that on or about May 23, 2019, the U.S. District Court for the Middle District of Florida found Registrant guilty of one count of Conspiracy to Distribute and Dispense Controlled Substances in violation of 21 U.S.C. 846. OSC, at 1. Following the conviction, the State of Florida Department of Health (hereinafter, the Florida Department of Health) issued an Order of Emergency Suspension of License on November 18, 2019. OSC, at 2. This Order, according to the OSC, immediately restricted Registrant's Florida medical license based on the Registrant's conviction. *Id.*

The OSC notified Registrant of the right to request a hearing on the allegations or to submit a written statement, while waiving the right to a hearing, the procedures for electing each option, and the consequences for failing to elect either option. *Id.* at 2 (citing 21 CFR 1301.43). The OSC also notified Registrant of the opportunity to submit a corrective action plan. OSC, at 3 (citing 21 U.S.C. 824(c)(2)(C)).

Adequacy of Service

In a Declaration dated March 9, 2021, a Diversion Investigator (hereinafter, DI) assigned to the DEA Miami Field Division, Tampa District Office, stated that the first attempt to serve the OSC to Registrant at his registered address was ''returned via USPS as undeliverable as [Registrant] was no longer at the address and he left no forwarding information.'' Request for Final Agency Action (hereinafter, RFAA), App. 6 (Declaration of DI), at 2; *see also* App. 5 (Copy of Return to Sender Envelope). The DI further stated that following the first unsuccessful service attempt, he and others from the Tampa District Office attempted to contact and personally serve the OSC on Registrant at ''addresses obtained from queries made of numerous online public databases for [Registrant's] address.'' *Id.* The DI went on to detail the multiple attempts to personally serve the OSC on Registrant at the various addresses on February 1, 2021. *Id.* On February 1, 2021, the DI and others from the Tampa District Office ''travelled to an address know[n] to be owned and occupied by [Registrant's] parents'' and ''despite multiple efforts to knock on the door and placing a phone call to the address, no contact was made with the occupants of the home.'' *Id.* Additionally, on February 1, 2021, the DI and another from the Tampa District Office ''travelled to an address identified as [Registrant's] residence'' and ''were told [Registrant] no longer lived there.'' *Id.* Finally, on February 1, 2021, the DI and others from the Tampa District Office ''travelled to an address [1] identified as [Registrant's] residence'' and ''were told that [Registrant] no longer lived there.'' *Id.* The DI concluded that ''during [the] attempts to serve [Registrant]'' he was informed that ''[Registrant's] registered address was permanently closed.'' *Id.*

The Government forwarded its RFAA, along with the evidentiary record, to this office on March 10, 2021. In its RFAA, the Government represents that ''more than thirty days have passed since the Order to Show Cause was served on [Registrant] and no request for hearing has been received by DEA.[2] RFAA, at 1. The Government requests that Registrant's ''Certificate of Registration as a practitioner be revoked and his application for renewal denied, based on [Registrant's] lack of state authority.'' RFAA, at 5.

Based on the DI's Declaration, the Government's written representations, and my review of the record, I find the Government's attempts to serve Registrant were legally sufficient. Due process does not require actual notice. *Jones* v. *Flowers,* 547 U.S. 220, 226 (2006). ''[I]t requires only that the Government's effort be reasonably calculated to apprise a party of the pendency of the action.'' *Dusenbery* v. *United States,* 534 U.S. 161, 170 (2002) (internal quotations omitted). In this case, the Government first attempted to serve Registrant by mail to his registered address. When the OSC was returned as undeliverable because Registrant was no longer at the address and left no forwarding information, the Government attempted to personally serve Registrant at his registered address, his identified residences, and the address known to be owned and occupied by Registrant's parents, all of which were locations where the Government reasonably believed Registrant would be located. ''[T]he Due Process Clause does not require . . . heroic efforts by the Government'' to find Registrant. *Id.* I find, therefore, that under the circumstances, the Government's efforts to notify Registrant of the OSC were reasonable and satisfied due process. *See Frederick Silvers, M.D.,* 85 FR 45,442, 45,443 (2020).

I also find that more than thirty days have now passed since the Government accomplished service of the OSC. Further, based on the Government's written representations, I find that neither Registrant, nor anyone purporting to represent the Registrant, requested a hearing, submitted a written statement while waiving Registrant's right to a hearing, or submitted a corrective action plan. Accordingly, I find that Registrant has waived the right to a hearing and the right to submit a written statement and corrective action plan. 21 CFR 1301.43(d) and 21 U.S.C. 824(c)(2)(C). I, therefore, issue this Decision and Order based on the record submitted by the Government, which constitutes the entire record before me. 21 CFR 1301.43(e).

Findings of Fact

Registrant's DEA Registration

Registrant is the holder of DEA Certificate of Registration No. FD0005593 at the registered address of 14495 University Cove Place, Tampa, FL

[1] It appears from the language of the Declaration, that the DI attempted service at two separate potential residences of Registrant on February 1, 2021, in addition to Registrant's parents' address.

[2] The Government also represents that DEA has not received ''any other correspondence of [sic] filing'' from Registrant. RFAA, at 3.

33613. RFAA, App. 7, at 1 (Printout of Registration database). Pursuant to this registration, Registrant is authorized to dispense controlled substances in schedules II through V as a practitioner. *Id.* Registrant's registration is in ''renewal pending'' status. *Id.* at 1.

The Status of Registrant's State License

On November 18, 2019, the Florida Department of Health issued an Order of Emergency Suspension of License (hereinafter, Emergency Suspension). RFAA, App. 4, at 1 and 3. According to the Emergency Suspension, on or about May 23, 2019, Registrant was found guilty by the U.S. District Court for the Middle District of Florida of one count of Conspiracy to Distribute and Dispense Controlled Substances, ''not for a legitimate medical purpose and not in the course of professional practice in violation of 21 U.S.C. 846.'' *Id.* at 2. According to the Emergency Suspension, Florida State law provides that the Florida Department of Health shall issue an Emergency Suspension of ''any person licensed under Chapter 458, Florida Statutes [ ], who pleads guilty to, is convicted or found guilty of, or who enters a plea of nolo contendere to, regardless of adjudication, to [sic] a felony under 21 U.S.C. 846.'' *Id.* The Emergency Suspension ordered Registrant's license to practice as a physician to be ''immediately suspended.'' *Id.* at 3.

According to Florida's online records, of which I take official notice, Registrant's license is still suspended.[3] Florida Department of Health License Verification, *https://mqa-internet.doh.state.fl.us/MQASearchServices/HealthCareProviders* (last visited date of signature of this Order). Florida's online records show that Registrant's medical license is under emergency suspension and that Registrant is not authorized in Florida to practice medicine. *Id.*

Accordingly, I find that Registrant currently is not licensed to engage in the practice of medicine in Florida, the state in which Registrant is registered with the DEA.

Discussion

Pursuant to 21 U.S.C. 824(a)(3), the Attorney General is authorized to suspend or revoke a registration issued under section 823 of the Controlled Substances Act (hereinafter, CSA) ''upon a finding that the registrant . . . has had his State license or registration suspended . . . [or] revoked . . . by competent State authority and is no longer authorized by State law to engage in the . . . dispensing of controlled substances.'' With respect to a practitioner, the DEA has also long held that the possession of authority to dispense controlled substances under the laws of the state in which a practitioner engages in professional practice is a fundamental condition for obtaining and maintaining a practitioner's registration. *See, e.g., James L. Hooper, M.D.,* 76 FR 71,371 (2011), *pet. for rev. denied,* 481 F. App'x 826 (4th Cir. 2012); *Frederick Marsh Blanton, M.D.,* 43 FR 27,616, 27,617 (1978).

This rule derives from the text of two provisions of the CSA. First, Congress defined the term ''practitioner'' to mean ''a physician . . . or other person licensed, registered, or otherwise permitted, by . . . the jurisdiction in which he practices . . . , to distribute, dispense, . . . [or] administer . . . a controlled substance in the course of professional practice.'' 21 U.S.C. 802(21). Second, in setting the requirements for obtaining a practitioner's registration, Congress directed that ''[t]he Attorney General shall register practitioners . . . if the applicant is authorized to dispense . . . controlled substances under the laws of the State in which he practices.'' 21 U.S.C. 823(f). Because Congress has clearly mandated that a practitioner possess state authority in order to be deemed a practitioner under the CSA, the DEA has held repeatedly that revocation of a practitioner's registration is the appropriate sanction whenever he is no longer authorized to dispense controlled substances under the laws of the state in which he practices. *See, e.g., James L. Hooper,* 76 FR at 71,371–72; *Sheran Arden Yeates, M.D.,* 71 FR 39,130, 39,131 (2006); *Dominick A. Ricci, M.D.,* 58 FR 51,104, 51,105 (1993); *Bobby Watts, M.D.,* 53 FR 11,919, 11,920 (1988); *Frederick Marsh Blanton,* 43 FR at 27,617.

According to Florida statute, ''A practitioner, in good faith and in the course of his or her professional practice only, may prescribe, administer, [or] dispense . . . a controlled substance.'' Fla. Stat. Ann. § 893.05(1)(a) (West, current with chapters from the 2020 Second Regular Session of the 26th Legislature in effect through May 18, 2020). Further, ''practitioner,'' as defined by Florida statute, includes ''a physician licensed under chapter 458.'' Fla. Stat. Ann. § 893.02(23) (West, current with chapters from the 2020 Second Regular Session of the 26th Legislature in effect through May 18, 2020).[4]

Here, the undisputed evidence in the record is that Registrant's license to practice medicine is currently suspended. As such, he is not a ''practitioner'' as that term is defined by Florida statute. As already discussed, however, a physician must be a practitioner to dispense a controlled substance in Florida. Thus, because Registrant lacks authority to practice medicine in Florida, he is not currently authorized to handle controlled substances in Florida. Accordingly, I will order that Registrant's DEA registration be revoked.

Order

Pursuant to 28 CFR 0.100(b) and the authority vested in me by 21 U.S.C. 824(a), I hereby revoke DEA Certificate of Registration No. FD0005593 issued to Kendrick E. Duldulao. Further, pursuant to 28 CFR 0.100(b) and the authority vested in me by 21 U.S.C. 823(f), I hereby deny any pending application of Kendrick E. Duldulao to renew or modify this registration, as well as any other application of Kendrick E. Duldulao, for additional registration in Florida. This Order is effective May 3, 2021.

D. Christopher Evans,

Acting Administrator.

[FR Doc. 2021–06799 Filed 4–1–21; 8:45 am]

BILLING CODE 4410–09–P

[3] Under the Administrative Procedure Act, an agency ''may take official notice of facts at any stage in a proceeding—even in the final decision.'' United States Department of Justice, Attorney General's Manual on the Administrative Procedure Act 80 (1947) (Wm. W. Gaunt & Sons, Inc., Reprint 1979). Pursuant to 5 U.S.C. 556(e), ''[w]hen an agency decision rests on official notice of a material fact not appearing in the evidence in the record, a party is entitled, on timely request, to an opportunity to show the contrary.'' Accordingly, Registrant may dispute my finding by filing a properly supported motion for reconsideration of finding of fact within fifteen calendar days of the date of this Order. Any such motion and response shall be filed and served by email to the other party and to Office of the Administrator, Drug Enforcement Administration at *dea.addo.attorneys@dea.usdoj.gov.*

[4] Chapter 458 regulates medical practice.

DEPARTMENT OF JUSTICE

Notice of Lodging of Proposed Consent Decree Under CERCLA

On March 29, 2021, the Department of Justice lodged a proposed Consent Decree with the United States District Court for the Northern District of New York in the lawsuit entitled *United States of America* v. *Cross Nicastro,* Civil Case No. 6:17–cv–00745–GTS–ATB.

The proposed settlement resolves the United States' claims under Section 107 of the Comprehensive Environmental Response, Compensation and Liability

Act, 42 U.S.C. 9607, against Cross Nicastro, for recovery of response costs incurred at the Frankfort Asbestos Superfund Site. The settlement also resolves Defendant's liability under Section 106(b), 42 U.S.C. 9606(b), and Section 107(c)(3), 42 U.S.C. 9607(c)(3). The Site is located at 3720 Southside Road (Old New York State 5S), approximately one mile northwest of the Town of Frankfort, in Herkimer County, New York. Under the proposed Consent Decree, Cross Nicastro will pay $135,000 in past response costs, civil penalties, and damages to resolve the United States' claims.

The publication of this notice opens a period for public comment on the Consent Decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and should refer to *United States of America* v. *Cross Nicastro,* Case No. 6:17–cv–00745–GTS–ATB, D.J. Ref. No. 90–11–3–10738/3. All comments must be submitted no later than thirty (30) days after the publication date of this notice. Comments may be submitted either by email or by mail:

To submit comments:	*Send them to:*
By email	*pubcomment-ees.enrd@usdoj.gov.*
By mail	Assistant Attorney General, U.S. DOJ—ENRD, P.O. Box 7611, Washington, DC 20044–7611.

During the public comment period, the Consent Decree may be examined and downloaded at this Justice Department website: *http://www.justice.gov/enrd/consent-decrees.* We will provide a paper copy of the Consent Decree upon written request and payment of reproduction costs. Please mail your request for a paper copy and payment to: Consent Decree Library, U.S. DOJ—ENRD, P.O. Box 7611, Washington, DC 20044–7611.

Please enclose a check or money order for $5.75 (25 cents per page reproduction cost), payable to the United States Treasury.

Henry Friedman,

Assistant Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 2021–06872 Filed 4–1–21; 8:45 am]

BILLING CODE 4410–15–P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. OSHA–2011–0196]

The Vinyl Chloride Standard; Extension of the Office of Management and Budget's (OMB) Approval of Information Collection (Paperwork) Requirements

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Request for public comments.

SUMMARY: OSHA solicits public comments concerning the proposal to extend the Office of Management and Budget's (OMB) approval of the information collection requirements specified in the Vinyl Chloride Standard.

DATES: Comments must be submitted (postmarked, sent, or received) by June 1, 2021.

ADDRESSES:

Electronically: You may submit comments, including attachments, electronically at *http://www.regulations.gov,* the Federal eRulemaking Portal. Follow the instructions online for submitting comments.

Docket: To read or download comments or other material in the docket, go to *http://www.regulations.gov.* Documents in the docket are listed in the *http://www.regulations.gov* index; however, some information (*e.g.,* copyrighted material) is not publicly available to read or download through the website. All submissions, including copyrighted material, are available for inspection through the OSHA Docket Office. Contact the OSHA Docket Office for assistance in locating docket submissions.

Instructions: All submissions must include the agency name and the OSHA docket number for this **Federal Register** notice (OSHA–2011–0196). OSHA will place comments and requests to speak, including personal information, in the public docket, which may be available online. Therefore, OSHA cautions interested parties about submitting personal information such as Social Security numbers and birthdates. For further information on submitting comments, see the ''Public Participation'' heading in the section of this notice titled **SUPPLEMENTARY INFORMATION.**

FOR FURTHER INFORMATION CONTACT: Seleda Perryman or Theda Kenney, Directorate of Standards and Guidance, OSHA, U.S. Department of Labor, telephone (202) 693–2222.

SUPPLEMENTARY INFORMATION:

I. Background

The Department of Labor, as part of the continuing effort to reduce paperwork and respondent (*i.e.,* employer) burden, conducts a preclearance consultation program to provide the public with an opportunity to comment on proposed and continuing collection of information in accordance with the Paperwork Reduction Act (PRA) (44 U.S.C. 3506(c)(2)(A)). This program ensures that information is in the desired format, reporting burden (time and costs) is minimal, collection instruments are clearly understood, and OSHA's estimate of the information collection burden is accurate. The Occupational Safety and Health Act of 1970 (OSH Act) (29 U.S.C. 651 *et seq.*) authorizes information collection by employers as necessary or appropriate for enforcement of the Act or for developing information regarding the causes and prevention of occupational injuries, illnesses, and accidents (29 U.S.C. 657). The OSH Act also requires OSHA to obtain such information with minimum burden upon employers, especially those operating small businesses, and to reduce to the maximum extent feasible, unnecessary duplication of efforts in obtaining information (29 U.S.C. 657).

The Standard specifies a number of paperwork requirements. The following is a brief description of the collection of information requirements contained in the Vinyl Chloride (VC) Standard.

(A) Exposure Monitoring (§ 1910.1017(d)) and (§ 1910.1017(n))

Paragraph 1910.1017(d)(2) requires employers to conduct exposure monitoring at least quarterly if the results show that worker exposures are above the permissible exposure limit (PEL), while those exposed at or above the Action Level (AL) must be monitored no less than semiannually. Paragraph (d)(3) requires that employers perform additional monitoring whenever there has been a change in VC production, process, or control that may result in an increase in the release of VC.

(B) Written Compliance Plan (§§ 1910.1017(f)(2) and (f)(3))

Paragraph (f)(2) requires employers whose engineering and work practice controls cannot sufficiently reduce worker VC exposures to a level at or below the PEL to develop and implement a plan for doing so.

Paragraph (f)(3) requires employers to develop this written plan and provide it upon request to OSHA for examination and copying. These plans must be updated annually.

(C) Respirator Program (§ 1910.1017(g)(2))

When respirators are required, the employer must establish a respiratory protection program in accordance with § 1910.134, paragraphs (b) through (d) (except (d)(1)(iii) and (d)(3)(iii)(B)(1) and (2)) and (f) through (m). Paragraph 1910.134(c) requires the employer to develop and implement a written respiratory protection program with worksite-specific procedures and elements for required respirator use. The purpose of these requirements is to ensure that employers establish a standardized procedure for selecting, using, and maintaining respirators for each workplace where respirators will be used. Developing written procedures ensures that employers develop a respirator program that meets the needs of their workers.

(D) Emergency Plan (§ 1910.1017(i))

Employers must develop a written operational plan for dealing with emergencies; the plan must address the storage, handling, and use of VC as a liquid or compressed gas. In the event of an emergency, appropriate elements of the plan must be implemented. Emergency plans must maximize workers' personal protection and minimize the hazards of an emergency.

(E) Medical Surveillance (§ 1910.1017(k))

Paragraph (k) requires employers to develop a medical surveillance program for workers exposed to VC in excess of the action level. Examinations must be provided in accordance with this paragraph at least annually. Employers must also obtain, and provide to each worker, a copy of a physician's statement regarding the worker's suitability for continued exposure to VC, including use of protective equipment and respirators, if appropriate.

(F) Communication of VC Hazards (§ 1910.1017(l))

Under paragraph 1910.1017(l)(1), Hazard Communication, the employer shall ensure that at least the following hazards are addressed: Cancer; central nervous system effects; liver effects; blood effects; and flammability. Under paragraph 1910.1017(l)(1)(iii), the employer shall include vinyl chloride and polyvinyl chloride (PVC) in the program established to comply with the Hazard Communication Standard (HCS) (§ 1910.1200). The employer shall ensure that each employee has access to labels on containers of chemicals and substances associated with vinyl and polyvinyl chloride and to safety data sheets, and is trained in accordance with the provisions of HCS and paragraph (j) of this section.

(G) Recordkeeping (§ 1910.1017(m))

Employers must maintain worker exposure and medical records. Medical and monitoring records are maintained principally for worker access, but are designed to provide valuable information to both workers and employers. The medical and monitoring records required by this standard will aid workers and their physicians in determining whether or not treatment or other interventions are needed for VC exposure. The information also will enable employers to ensure that workers are not being overexposed; such information may alert the employer that steps must be taken to reduce VC exposures.

Exposure records must be maintained for at least 30 years, and medical records must be kept for the duration of employment plus 20 years, or for a total of 30 years, whichever is longer. Records must be kept for extended periods because of the long latency period associated with VC-related carcinogenesis (*i.e.,* cancer). Cancer often cannot be detected until 20 or more years after the first exposure to VC.

II. Special Issues for Comment

OSHA has a particular interest in comments on the following issues:

- Whether the proposed information collection requirements are necessary for the proper performance of the agency's functions, including whether the information is useful;
- The accuracy of OSHA's estimate of the burden (time and costs) of the information collection requirements, including the validity of the methodology and assumptions used;
- The quality, utility, and clarity of the information collected; and
- Ways to minimize the burden on employers who must comply. For example, by using automated or other technological information collection and transmission techniques.

III. Proposed Actions

OSHA is requesting that OMB extend the approval of the information collection requirements contained in the Vinyl Chloride Standard. The agency is requesting an adjustment decrease in the number of burden hours from 604 to 602, a total reduction of 2 burden hours. The decrease is a result of the agencies new method of rounding burden hours. There is also a decrease in capital costs from $51,358 to $32,450, a total decrease of $18,908. The decrease is primarily due to updated costs for exposure monitoring samples and medical examinations.

Type of Review: Extension of a currently approved collection.

Title: Vinyl Chloride Standard (29 CFR part 1910.1017).

OMB Control Number: 1218–0010.

Affected Public: Business or other for-profits.

Number of Respondents: 28.

Frequency of Responses: On occasion.

Total Responses: 881.

Average Time per Response: Varies.

Estimated Total Burden Hours: 602.

Estimated Cost (Operation and Maintenance): $32,450.

IV. Public Participation—Submission of Comments on This Notice and Internet Access to Comments and Submissions

You may submit comments in response to this document as follows: (1) Electronically at *http://www.regulations.gov,* which is the Federal eRulemaking Portal; (2) by facsimile (fax); or (3) by hard copy. Please note: While OSHA's Docket Office is continuing to accept and process submissions by regular mail, due to the COVID–19 pandemic, the Docket Office is closed to the public and not able to receive submissions to the docket by hand, express mail, messenger, and courier service. All comments, attachments, and other material must identify the agency name and the OSHA docket number (Docket No. OSHA–2011–0196) for the ICR. You may supplement electronic submissions by uploading document files electronically. If you wish to mail additional materials in reference to an electronic or facsimile submission, you must submit them to the OSHA Docket Office (see the section of this notice titled **ADDRESSES**). The additional materials must clearly identify your electronic comments by your name, date, and the docket number so the agency can attach them to your comments.

Due to security procedures, the use of regular mail may cause a significant delay in the receipt of comments.

Comments and submissions are posted without change at *http://www.regulations.gov.* Therefore, OSHA cautions commenters about submitting personal information such as social security numbers and dates of birth. Although all submissions are listed in the *http://www.regulations.gov* index,

some information (*e.g.,* copyrighted material) is not publicly available to read or download from this website.

All submissions, including copyrighted material, are available for inspection and copying at the OSHA Docket Office. Information on using the *http://www.regulations.gov* website to submit comments and access the docket is available at the website's ''User Tips'' link. Contact the OSHA Docket Office at (202) 693–2350, (TTY (877) 889–5627) for information about materials not available from the website, and for assistance in using the internet to locate docket submissions.

V. Authority and Signature

James S. Frederick, Principal Deputy Assistant Secretary of Labor for Occupational Safety and Health, directed the preparation of this notice. The authority for this notice is the Paperwork Reduction Act of 1995 (44 U.S.C. 3506 *et seq.*) and Secretary of Labor's Order No. 1–2012 (77 FR 3912).

Signed at Washington, DC, on March 25, 2021.

James S. Frederick,

Principal Deputy Assistant Secretary of Labor for Occupational Safety and Health.

[FR Doc. 2021–06796 Filed 4–1–21; 8:45 am]

BILLING CODE 4510–26–P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. OSHA–2011–0189]

Servicing Multi-Piece and Single Piece Rim Wheels; Extension of the Office of Management and Budget's (OMB) Approval of Information Collection (Paperwork) Requirements

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Request for public comments.

SUMMARY: OSHA solicits public comments concerning the proposal to extend the Office of Management and Budget's (OMB) approval of the information collection requirements specified in the Standard on Servicing Multi-Piece and Single Piece Rim Wheels. The paperwork provisions of the Standard includes a requirement that the manufacturer or a Registered Professional Engineer certify that repaired restraining devices and barriers meet the strength requirements specified in the Standard and a requirement that defective wheels and wheel components be marked or tagged.

DATES: Comments must be submitted (postmarked, sent, or received) by June 1, 2021.

ADDRESSES:

Electronically: You may submit comments, including attachments, electronically at *http://www.regulations.gov,* the Federal eRulemaking Portal. Follow the instructions online for submitting comments.

Docket: To read or download comments or other material in the docket, go to *http://www.regulations.gov.* Documents in the docket are listed in the *http://www.regulations.gov* index; however, some information (*e.g.,* copyrighted material) is not publicly available to read or download through the website. All submissions, including copyrighted material, are available for inspection through the OSHA Docket Office. Contact the OSHA Docket Office for assistance in locating docket submissions.

Instructions: All submissions must include the agency name and the OSHA docket number for this **Federal Register** notice (OSHA–2011–0189). OSHA will place comments and requests to speak, including personal information, in the public docket, which may be available online. Therefore, OSHA cautions interested parties about submitting personal information such as Social Security numbers and birthdates. For further information on submitting comments, see the ''Public Participation'' heading in the section of this notice titled **SUPPLEMENTARY INFORMATION.**

FOR FURTHER INFORMATION CONTACT: Theda Kenney or Seleda Perryman, Directorate of Standards and Guidance, OSHA, U.S. Department of Labor; telephone (202) 693–2222.

SUPPLEMENTARY INFORMATION:

I. Background

The Department of Labor, as part of the continuing effort to reduce paperwork and respondent (*i.e.,* employer) burden, conducts a preclearance consultation program to provide the public with an opportunity to comment on proposed and continuing information collection requirements in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)). This program ensures that information is in the desired format, reporting burden (time and costs) is minimal, collection instruments are clearly understood, and OSHA's estimate of the information collection burden is accurate. The Occupational Safety and Health Act of 1970 (OSH Act) (29 U.S.C. 651 *et seq.*) authorizes information collection by employers as necessary or appropriate for enforcement of the OSH Act or for developing information regarding the causes and prevention of occupational injuries, illnesses, and accidents (29 U.S.C. 657). The OSH Act also requires that OSHA obtain such information with minimum burden upon employers, especially those operating small businesses, and to reduce to the maximum extent feasible unnecessary duplication of efforts in obtaining information (29 U.S.C. 657).

Certification of repair (§ 1910.177(d)(3)(iv)). This paragraph requires that when restraining devices and barriers are removed from service because they are defective, they shall not be returned to service until they are repaired and reinspected. If the repair is structural, the manufacturer or a Registered Professional Engineer must certify that the strength requirements specified in § 1910.177(d)(3)(i) of the Standard have been met.

The certification records are used to assure that equipment has been properly repaired. The certification records also provide the most efficient means for OSHA compliance officers to determine that an employer is complying with the Standard.

Marking or tagging of wheel components (§ 1910.177(e)(2)). This paragraph requires that defective wheels and wheel components ''be marked or tagged unserviceable and removed from the service area.'' Under this requirement, OSHA is providing employers with sufficient information from which they can derive the wording to use in marking the object or constructing a tag. Therefore, this provision imposes no paperwork burden because it falls within the portion of 5 CFR 1320(c)(2) that states, ''The public disclosure of information originally supplied by the Federal government to the recipient for the purpose of disclosure to the public is not included within this definition [of 'collection of information']''.

II. Special Issues for Comment

OSHA has a particular interest in comments on the following issues:

- Whether the proposed information collection requirements are necessary for the proper performance of the agency's functions, including whether the information is useful;
- The accuracy of OSHA's estimate of the burden (time and costs) of the information collection requirements, including the validity of the methodology and assumptions used;

• The quality, utility, and clarity of the information collected; and

• Ways to minimize the burden on employers who must comply; for example, by using automated or other technological information collection and transmission techniques.

III. Proposed Actions

OSHA is requesting that OMB extend the approval of the information collection requirements contained in the Standard on Servicing Multi-Piece and Single Piece Rim Wheels (29 CFR 1910.177). OSHA is proposing to retain the current burden hour estimate of one (1) hour. The agency will summarize the comments submitted in response to this notice and will include this summary in the request to OMB.

Type of Review: Extension of a currently approved collection.

Title: Servicing Multi-Piece and Single Piece Rim Wheels (29 CFR 1910.177).

OMB Control Number: 1218–0219.

Affected Public: Business or other for-profits.

Number of Respondents: 85.

Frequency of Responses: On occasion.

Average Time per Response: Various.

Estimated Total Burden Hours: 1.

Estimated Cost (Operation and Maintenance): $0.

IV. Public Participation—Submission of Comments on This Notice and Internet Access to Comments and Submissions

You may submit comments in response to this document as follows: (1) Electronically at *http://regulations.gov,* which is the Federal eRulemaking Portal; (2) by facsimile (fax); or (3) by hard copy. All comments, attachments, and other materials must identify the agency name and the OSHA docket number for the ICR (Docket No. OSHA–2011–0189). Please note: While OSHA's Docket Office is continuing to accept and process submissions by regular mail, due to the COVID–19 pandemic, the Docket Office is closed to the public and not able to receive submissions to the docket by hand, express mail, messenger, and courier service. All comments, attachments, and other material must identify the agency name and the OSHA docket number for the ICR (Docket No. OSHA–2011–0189). You may supplement electronic submissions by uploading document files electronically. If you wish to mail additional materials in reference to an electronic or facsimile submission, you must submit them to the OSHA Docket Office (see the section of this notice titled **ADDRESSES**). The additional materials must clearly identify your electronic comments by your name, date, and the docket number so the agency can attach them to your comments.

Due to security procedures, the use of regular mail may cause a significant delay in the receipt of comments.

Comments and submissions are posted without change at *http://www.regulations.gov.* Therefore, OSHA cautions comments about submitting personal information such as social security numbers and dates of birth. Although all submissions are listed in the *http://www.regulations.gov* index, some information (*e.g.,* copyrighted material) is not publicly available to read or download through this website. All submissions, including copyrighted material, are available for inspection and copying at the OSHA Docket Office. Information on using the *http://www.regulations.gov* website to submit comments and access the docket is available at the website's ''User Tips'' link. Contact the OSHA Docket Office at (202) 693–2350, (TTY (877) 889–5627) for information about materials not available through the website, and for assistance in using the internet to locate docket submissions.

V. Authority and Signature

James S. Frederick, Principal Deputy Assistant Secretary of Labor for Occupational Safety and Health, directed the preparation of this notice. The authority for this notice is the Paperwork Reduction Act of 1995 (44 U.S.C. 3506 *et seq.*) and Secretary of Labor's Order No. 1–2012 (77 FR 3912).

Signed at Washington, DC, on March 25, 2021.

James S. Frederick,

Principal Deputy Assistant Secretary of Labor for Occupational Safety and Health.

[FR Doc. 2021–06797 Filed 4–1–21; 8:45 am]

BILLING CODE 4510–26–P

DEPARTMENT OF LABOR

Office of Workers' Compensation Programs

Advisory Board on Toxic Substances and Worker Health

AGENCY: Office of Workers' Compensation Programs.

ACTION: Notice of meeting.

SUMMARY: Announcement of meeting of the Advisory Board on Toxic Substances and Worker Health (Advisory Board) for the Energy Employees Occupational Illness Compensation Program Act (EEOICPA).

DATES: The Advisory Board will meet April 22–23, 2021, via teleconference, from 1:00 p.m. to 5:00 p.m. Eastern time on each day.

ADDRESSES: Submission of comments, requests to speak, and materials for the record: You must submit comments, materials, and requests to speak at the Advisory Board meeting by April 15, 2021, identified by the Advisory Board name and the meeting date of April 22–23, 2021, by any of the following methods:

• *Electronically:* Send to: *EnergyAdvisoryBoard@dol.gov* (specify in the email subject line, for example ''Request to Speak: Advisory Board on Toxic Substances and Worker Health'').

• *Mail, express delivery, hand delivery, messenger, or courier service:* Submit one copy to the following address: U.S. Department of Labor, Office of Workers' Compensation Programs, Advisory Board on Toxic Substances and Worker Health, Room S–3522, 200 Constitution Ave. NW, Washington, DC 20210.

Instructions: Your submissions must include the Agency name (OWCP), the committee name (the Advisory Board), and the meeting date (April 22–23, 2021). Due to security-related procedures, receipt of submissions by regular mail may experience significant delays. For additional information about submissions, see the **SUPPLEMENTARY INFORMATION** section of this notice.

OWCP will make available publicly, without change, any comments, requests to speak, and speaker presentations, including any personal information that you provide. Therefore, OWCP cautions interested parties against submitting personal information such as Social Security numbers and birthdates.

FOR FURTHER INFORMATION CONTACT: For press inquiries: Ms. Laura McGinnis, Office of Public Affairs, U.S. Department of Labor, Room S–1028, 200 Constitution Ave. NW, Washington, DC 20210; telephone (202) 693–4672; email *Mcginnis.Laura@DOL.GOV.*

SUPPLEMENTARY INFORMATION:

The Advisory Board will meet via teleconference: Thursday, April 22, 2021, from 1:00 p.m. to 5:00 p.m. Eastern time; and Friday, April 23, 2021, from 1:00 p.m. to 5:00 p.m. Eastern time. The teleconference number and other details for participating remotely will be posted on the Advisory Board's website, *http://www.dol.gov/owcp/energy/regs/compliance/AdvisoryBoard.htm,* 72 hours prior to the commencement of the first meeting date. Advisory Board meetings are open to the public.

Public comment session: Thursday, April 22, 2021, from 4:15 p.m. to 5:00 p.m. Eastern time. Please note that the

public comment session ends at the time indicated or following the last call for comments, whichever is earlier. Members of the public who wish to provide public comments should plan to call in to the public comment session at the start time listed.

The Advisory Board is mandated by Section 3687 of EEOICPA. The Secretary of Labor established the Board under this authority and Executive Order 13699 (June 26, 2015). The purpose of the Advisory Board is to advise the Secretary with respect to: (1) The Site Exposure Matrices (SEM) of the Department of Labor; (2) medical guidance for claims examiners for claims with the EEOICPA program, with respect to the weighing of the medical evidence of claimants; (3) evidentiary requirements for claims under Part B of EEOICPA related to lung disease; (4) the work of industrial hygienists and staff physicians and consulting physicians of the Department of Labor and reports of such hygienists and physicians to ensure quality, objectivity, and consistency; (5) the claims adjudication process generally, including review of procedure manual changes prior to incorporation into the manual and claims for medical benefits; and (6) such other matters as the Secretary considers appropriate. The Advisory Board sunsets on December 19, 2024.

The Advisory Board operates in accordance with the Federal Advisory Committee Act (FACA) (5 U.S.C. App. 2) and its implementing regulations (41 CFR part 102–3).

Agenda: The tentative agenda for the Advisory Board meeting includes:

- Review and follow-up on Advisory Board's previous recommendations, data requests, and action items;
- Discussion of resources requested;
- Discussions by Advisory Board working groups;
- Review of public comments;
- Review of Board tasks, structure and work agenda;
- Consideration of any new issues; and
- Public comments.

OWCP transcribes and prepares detailed minutes of Advisory Board meetings. OWCP posts the transcripts and minutes on the Advisory Board web page, *http://www.dol.gov/owcp/energy/regs/compliance/AdvisoryBoard.htm,* along with written comments, speaker presentations, and other materials submitted to the Advisory Board or presented at Advisory Board meetings.

Public Participation, Submissions and Access to Public Record

Advisory Board meetings: All Advisory Board meetings are open to the public. Information on how to participate in the meeting remotely will be posted on the Advisory Board's website.

Submission of comments: You may submit comments using one of the methods listed in the **SUMMARY** section. Your submission must include the Agency name (OWCP) and date for this Advisory Board meeting (April 22–23, 2021). OWCP will post your comments on the Advisory Board website and provide your submissions to Advisory Board members.

Because of security-related procedures, receipt of submissions by regular mail may experience significant delays.

Requests to speak and speaker presentations: If you want to address the Advisory Board at the meeting you must submit a request to speak, as well as any written or electronic presentation, by April 15, 2021, using one of the methods listed in the **SUMMARY** section. Your request may include:

- The amount of time requested to speak;
- The interest you represent (*e.g.,* business, organization, affiliation), if any; and
- A brief outline of the presentation.

PowerPoint presentations and other electronic materials must be compatible with PowerPoint 2010 and other Microsoft Office 2010 formats. The Advisory Board Chair may grant requests to address the Board as time and circumstances permit.

Electronic copies of this **Federal Register** notice are available at *http://www.regulations.gov.* This notice, as well as news releases and other relevant information, are also available on the Advisory Board's web page at *http://www.dol.gov/owcp/energy/regs/compliance/AdvisoryBoard.htm.*

For further information regarding this meeting, you may contact Michael Chance, Designated Federal Officer, at *chance.michael@dol.gov,* or Carrie Rhoads, Alternate Designated Federal Officer, at *rhoads.carrie@dol.gov,* U.S. Department of Labor, 200 Constitution Avenue NW, Suite S–3524, Washington, DC 20210, telephone (202) 343–5580. This is not a toll-free number.

Signed at Washington, DC, this 29th day of March 2021.

Christopher Godfrey,

Director, Office of Workers' Compensation Programs.

[FR Doc. 2021–06798 Filed 4–1–21; 8:45 am]

BILLING CODE 4510–CR–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–302; NRC–2021–0061]

Crystal River Unit 3 Nuclear Generating Plant; Consideration of Approval of Transfer of License

AGENCY: Nuclear Regulatory Commission.

ACTION: Application for indirect transfer of license; opportunity to comment, request a hearing, and petition for leave to intervene.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) received and is considering approval of an application filed by ADP CR3, LLC (ADP CR3), on behalf of itself and its corporate parents related to NorthStar Group Services, Inc. (NorthStar) (together, the applicants), on November 19, 2020. The application seeks NRC approval of the indirect transfer of ADP CR3's licensed authority to possess, maintain, and decommission the Crystal River Unit 3 Nuclear Generating Plant (CR3) under Facility Operating License No. DPR–72, as well as the general license for the CR3 independent spent fuel storage installation (ISFSI), from the corporate parents of NorthStar to a new intermediary holding company that would acquire control of NorthStar, as described in the application.

DATES: Comments must be filed by May 3, 2021. Requests for a hearing or petitions for leave to intervene must be filed by April 22, 2021.

ADDRESSES: You may submit comments by any of the following methods; however, the NRC encourages electronic comment submission through the Federal Rulemaking Website:

- *Federal Rulemaking Website:* Go to *https://www.regulations.gov* and search for Docket ID NRC–2021–0061. Address questions about Docket IDs in *Regulations.gov* to Stacy Schumann; telephone: 301–415–0624; email: *Stacy.Schumann@nrc.gov.* For technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.
- *Mail comments to:* Office of Administration, Mail Stop: TWFN–7–A60M, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, ATTN: Program Management, Announcements and Editing Staff.

For additional direction on obtaining information and submitting comments, see ''Obtaining Information and Submitting Comments'' in the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: Marlayna V. Doell, Office of Nuclear

Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–3178, email: *Marlayna.Doell@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID NRC–2021–0061 when contacting the NRC about the availability of information for this action. You may obtain publicly available information related to this action by any of the following methods:

- *Federal Rulemaking Website:* Go to *https://www.regulations.gov* and search for Docket ID NRC–2021–0061.
- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly available documents online in the ADAMS Public Documents collection at *https://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''Begin Web-based ADAMS Search.'' For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov.* The ''Application for Order Approving Indirect Transfers of Control of Licenses in Connection with Internal Corporate Reorganization,'' dated November 19, 2020, is available in ADAMS under Accession No. ML20324A058.
- *Attention:* The PDR, where you may examine and order copies of public documents, is currently closed. You may submit your request to the PDR via email at *pdr.resource@nrc.gov* or call 1–800–397–4209 or 301–415–4737, between 8:00 a.m. and 4:00 p.m. (EST), Monday through Friday, except Federal holidays.

B. Submitting Comments

The NRC encourages electronic comment submission through the Federal Rulemaking Website (*https://www.regulations.gov*). Please include Docket ID NRC–2021–0061 in your comment submission.

The NRC cautions you not to include identifying or contact information that you do not want to be publicly disclosed in your comment submission. The NRC will post all comment submissions at *https://www.regulations.gov* as well as enter the comment submissions into ADAMS. The NRC does not routinely edit comment submissions to remove identifying or contact information.

If you are requesting or aggregating comments from other persons for submission to the NRC, then you should inform those persons not to include identifying or contact information that they do not want to be publicly disclosed in their comment submission. Your request should state that the NRC does not routinely edit comment submissions to remove such information before making the comment submissions available to the public or entering the comment into ADAMS.

II. Introduction

The NRC is considering the issuance of an order under §§ 50.80 and 72.50 of title 10 of the *Code of Federal Regulations* (10 CFR) approving the indirect transfer of control of Facility Operating License No. DPR–72, as well as the general license for the ISFSI, for CR3 from the corporate parents of NorthStar to a new intermediary holding company.

According to the application for approval filed by the applicants, the proposed indirect transfer of control of the license would reflect the completion of an internal reorganization and would occur when voting control of NorthStar is transferred to the new intermediary holding company structure, as described in the application dated November 19, 2020. The application also notes that Duke Energy Florida, LLC (DEF) will remain the licensed owner of CR3 and that the proposed indirect license transfer does not involve any direct or indirect transfer of DEF's license. No physical changes to CR3 or operational changes are being proposed in the application.

The NRC's regulations at 10 CFR 50.80 and 72.50 state that no license, or any right thereunder, shall be transferred, directly or indirectly, through transfer of control of the license, unless the Commission gives its consent in writing. The Commission will approve an application for the indirect transfer of a license if the Commission determines that the proposed transfer will not affect the qualifications of the licensee to hold the license, and that the transfer is otherwise consistent with applicable provisions of law, regulations, and orders issued by the Commission.

III. Opportunity To Comment

Within 30 days from the date of publication of this notice, persons may submit written comments regarding the license transfer application, as provided for in 10 CFR 2.1305. The Commission will consider and, if appropriate, respond to these comments, but such comments will not otherwise constitute part of the decisional record. Comments should be submitted as described in the **ADDRESSES** section of this document.

IV. Opportunity To Request a Hearing and Petition for Leave To Intervene

Within 20 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 20 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.

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 20 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.

V. 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.

The Commission will issue a notice or order granting or denying a hearing request or intervention petition, designating the issues for any hearing that will be held and designating the Presiding Officer. A notice granting a hearing will be published in the **Federal Register** and served on the parties to the hearing.

For further details with respect to this application, see the application dated November 19, 2020 (ADAMS Accession No. ML20324A058).

Dated: March 29, 2021.

For the Nuclear Regulatory Commission.

Bruce A. Watson,

Chief, Reactor Decommissioning Branch, Division of Decommissioning, Uranium Recovery, and Waste Programs, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 2021–06765 Filed 4–1–21; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–271 and 72–59; NRC–2021–0057]

Vermont Yankee Nuclear Power Station; Consideration of Approval of Transfer of License

AGENCY: Nuclear Regulatory Commission.

ACTION: Application for indirect transfer of license; opportunity to comment, request a hearing, and petition for leave to intervene.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) received and is considering approval of an application filed by NorthStar Nuclear Decommissioning Company, LLC, on behalf of itself, NorthStar Vermont Yankee, LLC, and their corporate parents related to NorthStar Group Services, Inc. (NorthStar) (together, the applicants), on November 19, 2020. The application seeks NRC approval of the indirect transfer of control of Renewed Facility Operating License No. DPR–28, as well as the general license for the independent spent fuel storage installation (ISFSI), for the Vermont Yankee Nuclear Power Station (VY) from the corporate parents of NorthStar to a new intermediary holding company that would acquire control of NorthStar, as described in the application.

DATES: Comments must be filed by May 3, 2021. Requests for a hearing or petitions for leave to intervene must be filed by April 22, 2021.

ADDRESSES: You may submit comments by any of the following methods; however, the NRC encourages electronic comment submission through the Federal Rulemaking website:

- *Federal Rulemaking website:* Go to *https://www.regulations.gov* and search for Docket ID NRC–2021–0057. Address questions about Docket IDs in *Regulations.gov* to Stacy Schumann; telephone: 301–415–0624; email: *Stacy.Schumann@nrc.gov*. For technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.
- *Mail Comments to:* Office of Administration, Mail Stop: TWFN–7–A60M, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, ATTN: Program Management, Announcements and Editing Staff.

For additional direction on obtaining information and submitting comments, see ''Obtaining Information and Submitting Comments'' in the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: Jack D. Parrott, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–6634, email: *Jack.Parrott@nrc.gov*.

SUPPLEMENTARY INFORMATION:

I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID NRC–2021–0057 when contacting the NRC about the availability of information for this action. You may obtain publicly available information related to this action by any of the following methods:

- *Federal Rulemaking website:* Go to *https://www.regulations.gov* and search for Docket ID NRC–2021–0057.
- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly available documents online in the ADAMS Public Documents collection at *https://www.nrc.gov/reading-rm/adams.html*. To begin the search, select ''Begin Web-based ADAMS Search.'' For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov*. The ''Application for Order Approving Indirect Transfers of Control of Licenses in Connection with Internal Corporate Reorganization,'' dated November 19, 2020, is available in ADAMS under Accession No. ML20324A058.
- *Attention:* The PDR, where you may examine and order copies of public documents, is currently closed. You may submit your request to the PDR via email at *pdr.resource@nrc.gov* or call 1–800–397–4209 or 301–415–4737, between 8:00 a.m. and 4:00 p.m. (EST), Monday through Friday, except Federal holidays.

B. Submitting Comments

The NRC encourages electronic comment submission through the Federal Rulemaking website (*https://www.regulations.gov*). Please include Docket ID NRC–2021–0057 in your comment submission.

The NRC cautions you not to include identifying or contact information that you do not want to be publicly disclosed in your comment submission. The NRC will post all comment submissions at *https://www.regulations.gov* as well as enter the comment submissions into ADAMS. The NRC does not routinely edit comment submissions to remove identifying or contact information.

If you are requesting or aggregating comments from other persons for submission to the NRC, then you should inform those persons not to include identifying or contact information that they do not want to be publicly disclosed in their comment submission. Your request should state that the NRC does not routinely edit comment submissions to remove such information before making the comment submissions available to the public or entering the comment into ADAMS.

II. Introduction

The NRC is considering the issuance of an order under §§ 50.80 and 72.50 of title 10 of the *Code of Federal Regulations* (10 CFR) approving the indirect transfer of control of Renewed Facility Operating License No. DPR–28, as well as the general license for the ISFSI, for VY from the corporate parents of NorthStar to a new intermediary holding company.

According to the application for approval filed by the applicants, the proposed indirect transfer of control of the license would reflect the completion of an internal reorganization and would occur when voting control of NorthStar is transferred to the new intermediary holding company structure, as described in the application dated November 19, 2020. The applicants will continue to own the facility and hold the license. No physical changes to VY or operational changes are being proposed in the application.

The NRC's regulations at 10 CFR 50.80 and 72.50 state that no license, or any right thereunder, shall be transferred, directly or indirectly, through transfer of control of the license, unless the Commission gives its consent in writing. The Commission will approve an application for the indirect transfer of a license if the Commission determines that the proposed transfer will not affect the qualifications of the licensee to hold the license, and that the transfer is otherwise consistent with applicable provisions of law, regulations, and orders issued by the Commission.

III. Opportunity to Comment

Within 30 days from the date of publication of this notice, persons may submit written comments regarding the license transfer application, as provided for in 10 CFR 2.1305. The Commission will consider and, if appropriate, respond to these comments, but such comments will not otherwise constitute part of the decisional record. Comments should be submitted as described in the **ADDRESSES** section of this document.

IV. Opportunity To Request a Hearing and Petition for Leave To Intervene

Within 20 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 20 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.

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 20 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.

V. 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 timestamps 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 previously above, click ''cancel'' when the link requests certificates and you will be automatically directed to the NRC's electronic hearing dockets where you will be able to access any publicly available documents in a particular hearing docket. Participants are requested not to include personal privacy information, such as social security numbers, home addresses, or personal phone numbers in their filings, unless an NRC regulation or other law requires submission of such information. For example, in some instances, individuals provide home addresses in order to demonstrate proximity to a facility or site. With respect to copyrighted works, except for limited excerpts that serve the purpose of the adjudicatory filings and would constitute a Fair Use application, participants are requested not to include copyrighted materials in their submission.

The Commission will issue a notice or order granting or denying a hearing request or intervention petition, designating the issues for any hearing that will be held and designating the Presiding Officer. A notice granting a hearing will be published in the **Federal Register** and served on the parties to the hearing.

For further details with respect to this application, see the application dated November 19, 2020 (ADAMS Accession No. ML20324A058).

Dated: March 29, 2021.

For the Nuclear Regulatory Commission.

Bruce A. Watson,

Chief, Reactor Decommissioning Branch, Division of Decommissioning, Uranium Recovery, and Waste Programs, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 2021–06766 Filed 4–1–21; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–266–SLR and 50–301–SLR; ASLBP No. 21–971–02–SLR–01]

NextEra Energy Point Beach, LLC; Establishment of Atomic Safety and Licensing Board

Pursuant to delegation by the Commission, *see* 37 FR 28,710 (Dec. 29, 1972), and the Commission's regulations, *see, e.g.,* 10 CFR 2.104, 2.105, 2.300, 2.309, 2.313, 2.318, 2.321, notice is hereby given that an Atomic Safety and Licensing Board (Board) is being established to preside over the following proceeding:

NextEra Energy Point Beach, LLC

(Point Beach Nuclear Plant, Units 1 and 2)

This proceeding involves an application seeking a twenty-year subsequent license renewal of Renewed Facility Operating License Nos. DPR–24 and DPR–27, which authorize NextEra Energy Point Beach, LLC to operate the Point Beach Nuclear Plant, Units 1 and 2, located near Manitowoc, Wisconsin, until, respectively, October 5, 2030 and March 8, 2033. In response to a notice published in the **Federal Register** announcing the opportunity to request a hearing, *see* 86 FR 6684 (Jan. 22, 2021), a hearing request was filed on March 23, 2021, on behalf of Physicians for Social Responsibility Wisconsin.

The Board is comprised of the following Administrative Judges:

William J. Froehlich, Chairman, Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001

Nicholas G. Trikouros, Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001

Dr. Gary S. Arnold, Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001

All correspondence, documents, and other materials shall be filed in accordance with the NRC E-Filing rule. *See* 10 CFR 2.302.

Dated: March 29, 2021.

Edward R. Hawkens,

Chief Administrative Judge, Atomic Safety and Licensing Board Panel, Rockville, Maryland.

[FR Doc. 2021–06785 Filed 4–1–21; 8:45 am]

BILLING CODE 7590–01–P

OFFICE OF PERSONNEL MANAGEMENT

Submission for Review: Disabled Dependent Questionnaire, RI 30–10

AGENCY: Office of Personnel Management.

ACTION: 60-Day notice and request for comments.

SUMMARY: Retirement Services, Office of Personnel Management (OPM) offers the general public and other federal agencies the opportunity to comment on an expiring information collection (ICR) with minor edits, Disabled Dependent Questionnaire, RI 30–10. This ICR has been revised in the following manner: The display of the OMB control number and an updated edition date.

DATES: Comments are encouraged and will be accepted until June 1, 2021.

ADDRESSES: You may submit comments, identified by docket number and/or Regulatory Information Number (RIN) and title, by the following method:

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

All submissions received must include the agency name and docket number or RIN for this document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

FOR FURTHER INFORMATION CONTACT: A copy of this ICR with applicable supporting documentation, may be obtained by contacting the Retirement Services Publications Team, Office of Personnel Management, 1900 E Street NW, Room 3316–L, Washington, DC 20415, Attention: Cyrus S. Benson, or sent 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 (Pub. L. 104–13, 44 U.S.C. chapter 35) as amended by the Clinger-Cohen Act (Pub. L. 104-106), OPM is soliciting comments for this collection (OMB No. 3206–0179). The Office of Management and Budget is particularly interested in comments that:

1. Evaluate whether the proposed collection of information is necessary for the proper performance of functions of the agency, including whether the information will have practical utility;

2. Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

3. Enhance the quality, utility, and clarity of the information to be collected; and

4. Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submissions of responses.

RI 30–10 is used to collect sufficient information about the medical condition and earning capacity for the Office of Personnel Management to be able to determine whether a disabled adult child is eligible for health benefits coverage and/or survivor annuity payments under the Civil Service Retirement System or the Federal Employees Retirement System.

Analysis

Agency: Retirement Operations, Retirement Services, Office of Personnel Management.

Title: Disabled Dependent Questionnaire.

OMB Number: 3206–0179.

Frequency: On occasion.

Affected Public: Individuals or Households.

Number of Respondents: 2,500.

Estimated Time per Respondent: 1 hour.

Total Burden Hours: 2,500.

Office of Personnel Management.

Alexys Stanley,

Regulatory Affairs Analyst.

[FR Doc. 2021–06791 Filed 4–1–21; 8:45 am]

BILLING CODE 6325–38–P

OFFICE OF PERSONNEL MANAGEMENT

Submission for Review: Evidence To Prove Dependency of a Child, RI 25–37

AGENCY: Office of Personnel Management.

ACTION: 60-Day notice and request for comments.

SUMMARY: Retirement Services, Office of Personnel Management (OPM) offers the general public and other federal agencies the opportunity to comment on an expiring information collection (ICR) with minor edits, Evidence to Prove Dependency of a Child, RI 25–37. This ICR has been revised in the following manner: The display of the OMB control number and an updated edition date.

DATES: Comments are encouraged and will be accepted until June 1, 2021.

ADDRESSES: You may submit comments, identified by docket number and/or Regulatory Information Number (RIN) and title, by the following method:

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

All submissions received must include the agency name and docket number or RIN for this document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

FOR FURTHER INFORMATION CONTACT: A copy of this ICR with applicable supporting documentation, may be obtained by contacting the Retirement Services Publications Team, Office of Personnel Management, 1900 E Street NW, Room 3316–L, Washington, DC 20415, Attention: Cyrus S. Benson, or sent 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 (Pub. L. 104–13, 44 U.S.C. chapter 35) as amended by the Clinger-Cohen Act (Pub. L. 104-106), OPM is soliciting comments for this collection (OMB No. 3206–0206). The Office of Management and Budget is particularly interested in comments that:

1. Evaluate whether the proposed collection of information is necessary for the proper performance of functions of the agency, including whether the information will have practical utility;

2. Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

3. Enhance the quality, utility, and clarity of the information to be collected; and

4. Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submissions of responses.

RI 25–37 is designed to collect sufficient information for the Office of Personnel Management to determine whether the surviving child of a deceased federal employee is eligible to receive benefits as a dependent child.

Analysis

Agency: Retirement Operations, Retirement Services, Office of Personnel Management.

Title: Evidence to Prove Dependency of a Child.

OMB Number: 3206–0206.

Frequency: On occasion.

Affected Public: Individuals or Households.

Number of Respondents: 250.

Estimated Time per Respondent: 1 hour.

Total Burden Hours: 250.

Office of Personnel Management.

Alexys Stanley,

Regulatory Affairs Analyst.

[FR Doc. 2021–06788 Filed 4–1–21; 8:45 am]

BILLING CODE 6325–38–P

OFFICE OF PERSONNEL MANAGEMENT

Submission for Review: Alternative Annuity Election, RI 20–80

AGENCY: Office of Personnel Management.

ACTION: 60-Day notice and request for comments.

SUMMARY: Retirement Services, Office of Personnel Management (OPM) offers the general public and other federal agencies the opportunity to comment on an expiring information collection (ICR) with minor edits, Alternative Annuity Election, RI 20–80. This ICR has been revised in the following manner: The display of the OMB control number and an updated edition date.

DATES: Comments are encouraged and will be accepted until June 1, 2021.

ADDRESSES: You may submit comments, identified by docket number and/or Regulatory Information Number (RIN) and title, by the following method:

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

All submissions received must include the agency name and docket number or RIN for this document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

FOR FURTHER INFORMATION CONTACT: A copy of this ICR with applicable supporting documentation, may be obtained by contacting the Retirement Services Publications Team, Office of Personnel Management, 1900 E Street NW, Room 3316–L, Washington, DC 20415, Attention: Cyrus S. Benson, or sent 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 (Pub. L. 104–13, 44 U.S.C. chapter 35) as amended by the Clinger-Cohen Act (Pub. L. 104–106), OPM is soliciting comments for this collection (OMB No. 3206–0168). The Office of Management and Budget is particularly interested in comments that:

1. Evaluate whether the proposed collection of information is necessary for the proper performance of functions of the agency, including whether the information will have practical utility;

2. Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

3. Enhance the quality, utility, and clarity of the information to be collected; and

4. Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submissions of responses.

RI 20–80 is used for individuals who are eligible to elect whether to receive a reduced annuity and a lump-sum payment equal to their retirement contributions (alternative form of annuity) or an unreduced annuity and no lump sum.

Analysis

Agency: Retirement Operations, Retirement Services, Office of Personnel Management.

Title: Alternative Annuity Election.

OMB Number: 3206–0168.

Frequency: On occasion.

Affected Public: Individuals or Households.

Number of Respondents: 200.

Estimated Time per Respondent: 20 minutes.

Total Burden Hours: 67.

Office of Personnel Management.

Alexys Stanley,

Regulatory Affairs Analyst.

[FR Doc. 2021–06790 Filed 4–1–21; 8:45 am]

BILLING CODE 6325–38–P

OFFICE OF PERSONNEL MANAGEMENT

Submission for Review: Representative Payee Survey, RI 38–115

AGENCY: Office of Personnel Management.

ACTION: 60-Day notice and request for comments.

SUMMARY: Retirement Services, Office of Personnel Management (OPM) offers the general public and other federal agencies the opportunity to comment on an expiring information collection (ICR) with minor edits, Representative Payee Survey, RI 38–115. This ICR has been revised in the following manner: The display of the OMB control number and an updated edition date.

DATES: Comments are encouraged and will be accepted until June 1, 2021.

ADDRESSES: You may submit comments, identified by docket number and/or Regulatory Information Number (RIN) and title, by the following method:

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

All submissions received must include the agency name and docket number or RIN for this document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

FOR FURTHER INFORMATION CONTACT: A copy of this ICR with applicable supporting documentation, may be obtained by contacting the Retirement Services Publications Team, Office of Personnel Management, 1900 E Street, NW, Room 3316–L, Washington, DC 20415, Attention: Cyrus S. Benson, or sent 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 (Pub. L. 104–13, 44 U.S.C. chapter 35) as amended by the Clinger-Cohen Act (Pub. L. 104–106), OPM is soliciting comments for this collection (OMB No. 3206–0208). The Office of Management and Budget is particularly interested in comments that:

1. Evaluate whether the proposed collection of information is necessary for the proper performance of functions of OPM, including whether the information will have practical utility;

2. Evaluate the accuracy of OPM'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 38–115, Representative Payee Survey, is used to collect information about how the benefits paid to a representative payee have been used or conserved for the benefit of the incompetent annuitant.

Analysis

Agency: Retirement Operations, Retirement Services, Office of Personnel Management.

Title: Representative Payee Survey.

OMB Number: 3206–0208.

Frequency: Annually.

Affected Public: Individuals or Households.

Number of Respondents: 11,000.

Estimated Time per Respondent: 20 minutes.

Total Burden Hours: 3,667.

Office of Personnel Management.

Alexys Stanley,

Regulatory Affairs Analyst.

[FR Doc. 2021–06789 Filed 4–1–21; 8:45 am]

BILLING CODE 6325–38–P

POSTAL REGULATORY COMMISSION

[Docket Nos. MC2021–79 and CP2021–82]

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:* April 6, 2021.

ADDRESSES: Submit comments electronically via the Commission's Filing Online system at *http://www.prc.gov.* Those who cannot submit comments electronically should contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section by telephone for advice on filing alternatives.

FOR FURTHER INFORMATION CONTACT: David A. Trissell, General Counsel, at 202–789–6820.

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Introduction
II. Docketed Proceeding(s)

I. Introduction

The Commission gives notice that the Postal Service filed request(s) for the Commission to consider matters related to negotiated service agreement(s). The request(s) may propose the addition or removal of a negotiated service agreement from the market dominant or the competitive product list, or the modification of an existing product currently appearing on the market dominant or the competitive product list.

Section II identifies the docket number(s) associated with each Postal Service request, the title of each Postal Service request, the request's acceptance date, and the authority cited by the Postal Service for each request. For each request, the Commission appoints an officer of the Commission to represent the interests of the general public in the proceeding, pursuant to 39 U.S.C. 505 (Public Representative). Section II also establishes comment deadline(s) pertaining to each request.

The public portions of the Postal Service's request(s) can be accessed via the Commission's website (*http://www.prc.gov*). Non-public portions of the Postal Service's request(s), if any, can be accessed through compliance with the requirements of 39 CFR 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.

[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).

II. Docketed Proceeding(s)

1. *Docket No(s).:* MC2021–79 and CP2021–82; *Filing Title:* USPS Request to Add First-Class Package Service Contract 115 to Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* March 29, 2021; *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:* April 6, 2021.

This Notice will be published in the **Federal Register**.

Jennie L. Jbara,

Alternate Certifying Officer.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–91429; File No. SR–DTC–2021–004]

Self-Regulatory Organizations; The Depository Trust Company; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend the Recovery & Wind-Down Plan

March 29, 2021.

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 March 23, 2021, The Depository Trust Company (''DTC'') 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 clearing agency. DTC filed the proposed rule change pursuant to Section 19(b)(3)(A) of the Act [3] and Rule 19b–4(f)(4) thereunder.[4] The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Clearing Agency's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change [5] consists of amendments to the R&W Plan to (i) reflect business and product developments, (ii) make certain changes to improve the clarity of the Plan, (iii) remove provisions covering certain ''business-as-usual'' actions, and (iv) make certain technical corrections, as described in greater detail below.

II. Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the clearing agency 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 clearing agency has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

(A) Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The proposed rule change would amend the R&W Plan to (i) reflect business and product developments, (ii) make certain changes to improve the clarity of the Plan, (iii) remove provisions covering certain ''business-as-usual'' actions, and (iv) make certain technical corrections. Each of the proposed revisions is further described below.

Background

The R&W Plan was adopted in August 2018 [6] and is maintained by DTC for compliance with Rule 17Ad–22(e)(3)(ii) under the Act.[7] The R&W Plan sets forth the plan to be used by the Board and DTC management in the event DTC encounters scenarios that could potentially prevent it from being able to provide its critical services as a going concern. The R&W Plan is structured as a roadmap that defines the strategy and identifies the tools available to DTC to either (i) recover, in the event it experiences losses that exceed its prefunded resources (such strategies and tools referred to herein as the ''Recovery Plan'') or (ii) wind-down its business in a manner designed to permit the continuation of DTC's critical services in the event that such recovery efforts are not successful (such strategies and tools referred to herein as the ''Wind-down Plan''). The recovery tools available to DTC are intended to address the risks of (a) uncovered losses or liquidity shortfalls resulting from the default of one or more of its Participants, and (b) losses arising from non-default events, such as damage to DTC's physical assets, a cyber-attack, or custody and investment losses, and the strategy for implementation of such tools. The R&W Plan also describes the strategy and framework for the orderly wind-down of DTC and the transfer of its business in the event the implementation of the available recovery tools does not successfully return DTC to financial viability.

The R&W Plan is managed and developed by DTC's parent company, the Depository Trust & Clearing Corporation (''DTCC''),[8] and is managed by the Office of Recovery & Resolution Planning (referred to in the Plan as the ''R&R Team'') on behalf of DTC, with review and oversight by the DTCC Management Committee and the Board.

Proposed Amendments to the R&W Plan

The Board, or such committees as may be delegated authority by the Board from time to time pursuant to its charter, is required to review and approve the R&W Plan biennially.[9] In connection with the first biennial review of the Plan, DTC is proposing the revisions described in greater detail below. The proposed rule change is designed to update and enhance the clarity of the Plan to ensure it is current in the event it is ever necessary to be implemented. None of the proposed changes modify DTC's general objectives and approach with respect to its recovery and wind-down strategy as set forth under the current Plan.

A. Proposed Changes To Reflect Business or Product Developments

1. Updates to DTCC Business Profile, Intercompany Arrangements, FMI Links and Governance

DTC is proposing the following changes to the DTCC Business Profile, Intercompany Arrangements, FMI Links and Governance sections of the Plan based upon business updates that have occurred since the time the Plan was adopted.

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[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A).

[4] 17 CFR 240.19b–4(f)(4).

[5] Capitalized terms not defined herein are defined in the Rules, By-Laws and Organization Certificate of DTC (the ''Rules''), *available at https://www.dtcc.com/-/media/Files/Downloads/legal/rules/dtc_rules.pdf,* or in the Recovery & Wind-down Plan of DTC (the ''R&W Plan'' or ''Plan'').

[6] *See* Securities Exchange Act Release Nos. 83972 (August 28, 2018), 83 FR 44964 (September 4, 2018) (SR–DTC–2017–021); and 83953 (August 27, 2018), 83 FR 44381 (August 30, 2018) (SR–DTC–2017–803).

[7] 17 CFR 240.17Ad–22(e)(3)(ii). DTC is a ''covered clearing agency'' as defined in Rule 17Ad-22(a)(5) under the Act and must comply with paragraph (e) of Rule 17Ad–22.

[8] DTCC operates on a shared service model with respect to DTC and its other affiliated clearing agencies, National Securities Clearing Corporation (''NSCC{ XE ''NSCC'' }'') and Fixed Income Clearing Corporation (''FICC''). Most corporate functions are established and managed on an enterprise-wide basis pursuant to intercompany agreements under which it is generally DTCC that provides relevant services to DTC, NSCC{ XE ''NSCC'' } and FICC (collectively, the ''Clearing Agencies'').

[9] *Supra* note 6.

Section 2.1 (DTCC Business Profile) of the Plan describes that DTCC is a user-owned and user-governed holding company for a group of direct and indirect subsidiaries and joint ventures. This section includes a brief summary of each of the three subsidiaries (DTC, FICC and NSCC) that have been designated as systemically important financial market utilities (''SIFMUs'') by the Financial Stability Oversight Council. The proposed rule change would revise the introductory paragraph of this section to remove reference to joint ventures because DTCC currently has no joint ventures.

Section 2.4 (Intercompany Arrangements) of the Plan currently describes how corporate support services are provided to DTC from DTCC, and to DTCC's other subsidiaries, through intercompany agreements under a shared services model. DTC is proposing to update Table 2–A (SIFMU Legal Entity Structure and Intercompany Agreements), which delineates DTC's affiliates, to reflect the name change of Omgeo Pte Ltd by removing ''Omgeo Pte Ltd'' and replacing it with the new name of this entity, ''DTCC Singapore Pte. Ltd.'' A related footnote would also be added to make clear that the services provided by DTCC Singapore Pte. Ltd. are performed through its branch office in Manila, DTCC Manila. Additionally, this section includes a separate table, Table 2–B, that lists each of the DTCC facilities utilized by the Clearing Agencies and indicates whether the facility is owned or leased by DTCC. DTC proposes to update this table to add Boston, Massachusetts as an additional location of a DTCC facility and to indicate that this facility is leased by DTCC.

Currently, Section 2.5 (FMI Links) of the Plan describes some, but not all, of the key financial market infrastructures (''FMIs''), both domestic and foreign, that DTC has identified as critical ''links.'' [10] In order to better align with the structure of DTCC's inventory of links maintained by DTCC's Systemic Risk Office (''SRO''), which includes all of DTC's link relationships, the proposed rule change would delete the current FMI Links section of the R&W Plan and replace it with a revised version of Section 2.5 that would include an overview of DTC's link arrangements, a related footnote to the definition of a ''link'' under Rule 17Ad–22(a)(8) under the Act, and a table (Table 2–C: Links) listing all of DTC's FMI link arrangements. The table would list the link, the link category (*i.e.,* whether the link is an ''inbound'' or ''outbound'' link, a central counterparty, or matching utility), and a brief description. The proposed rule change would also add a table (Table 2–D: Schedule A Relationships) that would identify certain critical external service providers that, as determined by DTC's management, do not meet the specified criteria of ''link'' but nevertheless are subject to the same review process as is conducted for links, referred to within DTC as ''Schedule A Relationships,'' and a related footnote. This change would align with the structure of SRO's inventory of Schedule A Relationships.

Section 4.3 (Recovery and Wind-down Program Governance) of the Plan currently contains a paragraph that identifies DTCC's ''R&R Steering Group'' as the internal group responsible for ensuring that each of the Clearing Agencies observes recovery planning requirements, and that recovery planning is integrated into the Clearing Agencies' overall governance processes including the preparation, review, and filing of the Clearing Agencies' R&W Plans. Pursuant to the proposed rule change, DTC would revise Section 4.3 to reflect an internal organizational name change. The proposal would change the name of the R&R Steering Group to the ''Recovery and Wind-down Planning Council'' to reflect its role as an advisory body.[11] This name change would not change the composition, role or responsibilities of this internal group, which includes selected members of DTCC's Management Committee and members of DTCC's financial and operational risk management, product management, legal, and treasury/finance teams that are responsible for providing strategic guidance and direction for the recovery and wind-down program [12] and the Plan. Additionally, for purposes of clarification, the proposal would add the words '', where necessary,'' to refer to when the council would engage with internal working groups.

2. Recovery Tool Characteristics, Legal Basis

Section 7.2 (Effectiveness) of the Plan describes DTC's legal basis for executing the ''recovery tools'' [13] that are outlined in the Recovery Plan. The recovery tools are intended to provide DTC with a comprehensive set of options to address its material risks and support the resiliency of its critical services under a range of stress scenarios. Many of the recovery tools are provided for in the Rules. Other recovery tools have legal basis in contractual arrangements to which DTC is a party.

Within this section there is currently a paragraph, under the subheading titled ''Basis,'' that includes a description of what a non-U.S. applicant (a ''foreign applicant'') for DTC membership is required to submit as part of the membership application process. The proposed rule change would revise the description of the application process for foreign applicants due to changes to this process that were approved by the Commission pursuant to a previous proposed rule change.[14] Specifically, the proposed rule change would provide that DTC requires foreign applicants to pay DTC a fee, as specified in the Rules, relating to DTC obtaining an opinion of foreign counsel satisfactory to DTC.

B. Proposal To Make Certain Clarifications to the R&W Plan

1. Critical Services and Indicative Non-Critical Services

Section 3 (Critical Services) of the Plan defines the criteria for classifying certain of DTC's services as ''critical,'' [15]

[10] As defined in Rule 17Ad–22(a)(8) under the Act, a link ''means, for purposes of paragraph (e)(20) of [Rule 17Ad–22], a set of contractual and operational arrangements between two or more clearing agencies, financial market utilities, or trading markets that connect them directly or indirectly for the purposes of participating in settlement, cross margining, expanding their services to additional instruments or participants, or for any other purposes material to their business.'' 17 CFR 240.17Ad–22(a)(8).

[11] In accordance with DTCC's Policy on Governance of Internal Committees and Councils, a ''council'' is defined as an advisory body that has no decision-making authority. A council may be formed by any committee or a Managing Director. Councils will share information, discuss topics, and make recommendations to its initiating committee or Managing Director. Councils report up to their initiating committee or Managing Director.

[12] In 2013, DTCC launched its Recovery & Resolution Planning Program for DTC, NSCC, and FICC as part of its continued commitment to enhancing risk management. The Office of Recovery & Resolution Planning was established to manage the program and the development of the recovery and wind-down plans for the Clearing Agencies.

[13] In addition to existing business-as-usual tools, the R&W Plan describes DTC's other principal recovery tools, which include, for example, (i) identifying, monitoring and managing general business risk and holding sufficient liquid net assets funded by equity to cover potential general business losses pursuant to the Clearing Agency Policy on Capital Requirements (the ''Capital Policy''), (ii) maintaining the Clearing Agency Capital Replenishment Plan (the ''Capital Plan'') as a viable plan for the replenishment of capital should DTC's equity fall close to or below the amount being held pursuant to the Capital Policy, and (iii) the process for the allocation of losses among Participants as provided in Rule 4.

[14] Securities Exchange Act Release No. 83544 (June 28, 2018), 83 FR 31223 (July 3, 2018) (SR–DTC–2018–002). Prior to that rule change, as reflected in the current Plan, DTC required foreign applicants to submit an acceptable opinion of relevant foreign counsel.

[15] Under the current Plan, the criteria that is used to identify a DTC service or function as critical includes consideration as to whether (1) there is a lack of alternative providers or products; (2) failure of the service could impact DTC's ability to perform its book-entry and settlement services; (3) failure of the service could impact DTC's ability to perform

and identifies such critical services and the rationale for their classification. The identification of DTC's critical services is important for evaluating how the recovery tools and the wind-down strategy would facilitate and provide for the continuation of DTC's critical services to the markets it serves. This section also includes a list of indicative non-critical services.

As more fully described below, the proposed rule change would clarify the description of some of the critical services and indicative non-critical services, and revise one of the classification criteria. While these changes do not change the classification of the relevant service (as being either ''critical'' or ''indicative non-critical''), nor impact the existing classification of other services, DTC believes these revisions would enhance the clarity of the descriptions of them.

First, in the table listing the criteria for determining what constitutes a critical service, pursuant to the proposed rule change, DTC would delete ''Criteria Determinant #2,'' and replace it with a description that DTC believes more fully captures what DTC's book-entry delivery and settlement services are, and the impact on transaction processing if these services were not available. Specifically, the language proposed to be deleted provides that, ''Failure/Disruption of Book-Entry Delivery and Settlement Services (Impact on Transaction Costs): DTC's settlement of equity and debt security transactions in the U.S. does not have alternative providers or products.'' The proposed rule change would replace the existing language with, ''Failure/Disruption of Book-Entry Delivery and Settlement Services (Impact on Transaction Processing): DTC maintains the books and records of ownership for equity and debt securities held and serviced by the depository. Failure of this service would result in clients' inability to settle transactions through book-entry movement of securities held at DTC.''

Second, in Table 3–B (DTC Critical Services), the description of critical service #19, (Cash and Stock Distributions) states that ''As the owner of the securities, DTC has an obligation to its Participants to distribute principal, interest, dividend payments and other distributions received for those securities. No alternative provider is available.'' The proposed rule change would revise the first sentence of this description to add the phrase ''on the issuer's books and records'' after the words ''As owner of the securities.'' DTC believes this change to the description, which currently does not include a reference to the fact that DTC's obligations with respect to distribution of ''Cash and Stock Distributions'' arise from its ownership of securities on the books and records of the issuer, is necessary to make clear that DTC is not the beneficial owner of the securities.

Third, in Table 3–C (Indicative Non-Critical DTC Services), the proposed rule change would amend the description of the last indicative non-critical service listed, ''Foreign Tax Relief Service,'' to add language to the beginning of the first sentence to clarify that this service, which works to reduce taxes withheld on non-U.S. company securities to a more favorable rate, is associated with the critical services (described in Table 3–B) of ''Cash and Stock Distributions'' and ''Mandatory and Voluntary Corporate Actions.''

2. Participant Default Losses Through the Crisis Continuum

Section 5 (Participant Default Losses through the Crisis Continuum) of the Plan is comprised of multiple subsections that identify the risk management surveillance, tools, and governance that DTC may employ across an increasing stress environment, referred to as the ''Crisis Continuum.'' [16] This section currently identifies, among other things, the tools that can be employed by DTC to mitigate losses, and mitigate or minimize liquidity needs, as the market environment becomes increasingly stressed. As more fully described below, the proposed rule change would clarify certain language.

Currently, Section 5.1 (Introduction) identifies the financial resources available to DTC, pursuant to the Rules, to address losses arising out of the default of a DTC Participant. One paragraph contains a statement that such losses would be satisfied first by applying a Corporate Contribution and then, if necessary, by allocating remaining losses to non-defaulting Participants, in accordance with Rule 4.[17] The proposed rule change would add a sentence to the end of this paragraph that would provide that, in addition to the tools described in Rule 4 (which are to be applied when, and in the order, specified in that Rule), DTC may, in extreme circumstances, borrow net credits from Participants secured by collateral of the defaulting Participant.[18] DTC believes this additional language is necessary to more clearly set forth the full range of actions and tools DTC may employ in response to such conditions.

Section 5.2.4 (Recovery Corridor and Recovery Phase) outlines the early warning indicators to be used by DTC to evaluate its options and potentially prepare to enter the ''Recovery Phase,'' which phase refers to the actions to be taken by DTC to restore its financial resources and avoid a wind-down of its business. Included in this section are descriptions of potential stress events that could lead to recovery, and several early warning indicators and metrics that DTC has established to evaluate its options and potentially prepare to enter the Recovery Phase. These indicators, which are referred to in the Recovery Plan as recovery corridor indicators (''Corridor Indicators''),[19] are calibrated against DTC's financial resources and are designed to give DTC the ability to replenish financial resources, typically through business as usual (''BAU'') tools applied prior to entering the Recovery Phase.

Section 5.2.4 also includes language that requires DTC management to review the Corridor Indicators and the related metrics at least annually and modify these metrics as necessary in

its payment system functions; and (4) the service is interconnected with other participants and processes within the U.S. financial system (for example, with other FMIs, settlement banks, broker-dealers, and exchanges).

[16] As set forth in the Recovery Plan, the phases of the ''Crisis Continuum'' include (1) a stable market phase, (2) a stressed market phase, (3) a phase commencing with DTC's decision to cease to act for a Participant or Affiliated Family of Participants (The Plan refers to an ''Affiliated Family'' of Participants as a number of affiliated entities that are all Participants of DTC), and (4) a recovery phase.

[17] Rule 4 defines the amount DTC would contribute to address a loss resulting from either a Participant default or a non-default event as the ''Corporate Contribution.'' This amount is 50 percent of the ''General Business Risk Capital Requirement,'' which is calculated pursuant to the Capital Policy and is an amount sufficient to cover potential general business losses so that DTC can continue operations and services as a going concern if those losses materialize, in compliance with Rule 17Ad–22(e)(15) under the Act. *See* 17 CFR 240.17Ad–22(e)(15).

[18] As noted in a footnote to Table 5–C of the Plan, each of these tools may be used in accordance with their respective terms and conditions, whether or not DTC has reached the Recovery Phase, in order to complete settlement.

[19] The majority of the Corridor Indicators, as identified in the Recovery Plan, relate directly to conditions that may require DTC to adjust its strategy for hedging and liquidating collateral securities, and any such changes would include an assessment of the status of the Corridor Indicators. Corridor Indicators include, for example, the effectiveness and speed of DTC's efforts to liquidate Collateral securities, and an impediment to the availability of DTC's resources to repay any borrowings due to any Participant Default. For each Corridor Indicator, the Recovery Plan identifies (1) measures of the indicator, (2) evaluations of the status of the indicator, (3) metrics for determining the status of the deterioration or improvement of the indicator, and (4) ''Corridor Actions,'' which are steps that may be taken to improve the status of the indicator, as well as management escalations required to authorize those steps.

light of observations from simulation of Participant defaults and other analyses. In order to more closely align with the biennial cycle of DTCC's multi-member closeout simulation exercise, the proposed rule change would shift the timing of management's review of the Corridor Indicators and related metrics from annually to biennially. DTC believes this change is necessary for consistency with the cycle of the multi-member closeout simulation in which the Corridor Indicators and metrics are assessed as part of the simulation exercise.

Also, there is a paragraph in Section 5.2.4 and an associated table (Table 5–B: Loss Waterfall Tools) that delineates the liquidity resources that DTC may draw upon following a Participant Default and subsequent cease to act. The table has four columns (''Order,'' ''Tool,'' ''Relevant Rules/Documents,'' and ''Responsible Body/Personnel'') and is organized by the order in which the liquidity resources are to be applied by DTC. Currently, the text of this paragraph describes that DTC may draw upon the Participants Fund Deposit and other collateral of the Participant for which it has ceased to act as provided under the Rules, including resources available under clearing agency cross guaranty agreements, and apply such resources to satisfy any losses that may result from the closeout. In order to be consistent with the title of Table 5–B, the proposed rule change would add a heading at the beginning this paragraph to be titled, ''Loss Waterfall Tools.'' Similarly, consistent with the descriptions and order of the tools listed in Table 5–B, the proposed rule change would remove the words ''can only be used'' and shift the phrase ''would be applied in the order listed'' in the text of the sentence directly above Table 5–B. Accordingly, under the proposed rule change, this sentence would read, ''These tools would be applied in the order listed in accordance with the provisions of Rule 4.'' [20]

Within Table 5–B, Corporate Contribution is the first entry under the column labeled ''Tool.'' Currently, the narrative for this entry includes a description of Corporate Contribution and delineates that in the event of a cease to act, before applying the Participants Fund deposits of all other Participants to cover any resulting loss, DTC will apply the Corporate Contribution.[21] The proposed rule change would revise the current text of the definition of Corporate Contribution in order to more closely align with how this term is defined under Rule 4.[22] Specifically, pursuant to the proposed rule change, the definition of Corporate Contribution would be revised to state, ''The Corporate Contribution is an amount that is equal to 50% of the amount calculated by DTC in respect of its General Business Risk Capital Requirement, for losses that occur over any rolling 12 month period.'' Similarly, the sentence directly above the definition of Corporate Contribution would be revised to remove the words ''applying the Participants Fund deposits of all other Participants,'' and replace them with ''charging Participants on a pro rata basis (other than the Defaulting Participant).''

Additionally, with respect to the second entry in Table 5–B, ''Loss Allocation,'' the descriptive text in the ''Responsible Body/Personnel'' column would be revised to more closely align with the same language contained in Rule 4. The revised text would state, ''The Rules provide for loss allocation of any remaining loss following the Corporate Contribution (plus any additional amounts that the Board may determine to apply). Participants will be obligated to fund loss allocations on the second business day after the Corporation issues any such notice.''

Section 5.3 (Liquidity Shortfalls) identifies tools that may be used to address foreseeable shortfalls of DTC's liquidity resources following a Participant Default. As described in DTC's previous proposed rule change adopting the Plan,[23] the goal in managing DTC's liquidity resources is to maximize resource availability in an evolving stress situation, to maintain flexibility in the order and use of sources of liquidity, and to repay any third-party lenders in a timely manner. The proposed rule change would revise the text described below to better clarify and enhance the description of the DTC's liquidity considerations and the use of its liquidity tools.

First, the current text of this section provides that, as elaborated in the Plan, there is interaction between market and liquidity actions on DTC's overall risk exposures. In particular, the third and fourth sentences state, ''A longer liquidation horizon could lengthen the period that [DTC's] liquidity resources are deployed and could increase the strain on the liquidity resources. On the other hand, managing the closeout process with an eye toward minimizing market disruption may reduce resulting losses.'' In order to more specifically reflect the type of risks to DTC posed in these circumstances, the proposed rule change would amend this statement to add the words ''market risk'' before ''losses.''

Second, Table 5–C currently lists (i) the liquidity tools intended to address foreseeable liquidity shortfalls that would not be covered by DTC's existing liquid resources, (ii) the relevant rules/documents associated with the applicable tool, and (iii) the process and relevant governance required to employ the tool. There is introductory language directly above Table 5–C that states, ''The following tools are intended to address foreseeable liquidity shortfalls that would not be covered by DTC's existing liquid resources and how its existing qualifying liquid resources may be replenished (ordered by ease and speed to market).'' For purposes of additional clarity, the proposal would add the following parenthetical, ''(for example, due to non-performance of committed lenders),'' after the words ''DTC's existing liquid resources,'' and to the existing parenthetical would add the word ''again'' before ''ordered by ease and speed to market.''

3. Non-Default Losses

Section 6 (Non-Default Losses) of the Plan outlines how DTC would address losses that result other than from a Participant Default. This section provides a roadmap to other documents that describe these events in greater detail and outlines DTC's approach to monitoring losses that could result from a non-default event. This section also includes a description of Rule 38 (Market Disruption and Force Majeure), referred to in the Plan as the ''Force Majeure Rule,'' [24] which pertains to how DTC addresses extraordinary events that occur outside the control of DTC and its Participants. As more fully described below, the proposed rule change would clarify certain language.

Section 6.4 (Resources to Cover Non-Default Losses) provides that DTC maintains two categories of financial resources to cover losses and expenses arising from non-default risks or events: (i) Liquid Net Assets Funded by Equity (''LNA''), including, pursuant to Rule 4, the required Corporate Contribution,[25] and (ii) loss-allocation charges to

[20] Rule 4, *supra* note 5.

[21] *Supra* note 17.

[22] Rule 4, *supra* note 5.

[23] *Supra* note 6.

[24] *Id.*

[25] *See* Securities Exchange Act Release Nos. 84426 (October 15, 2018), 83 FR 53138 (October 19, 2018) (SR–DTC–2018–008); and 89361 (July 21, 2020), 85 FR 45263 (July 27, 2020) (SR–DTC–2020–010) (filings amending the Capital Policy and Capital Plan). The initial Capital Policy and Capital Plan were approved by the Commission in 2017—*see* Securities Exchange Act Release No. 81105 (July 7, 2017), 82 FR 32399 (July 13, 2017) (SR–DTC–2017–003, SR–NSCC–2017–004, SR–FICC–2017–007).

Participants in accordance with the provisions of Rule 4.[26] Following an overview of the four buckets of LNA, which can be applied towards non-default losses,[27] there is a paragraph under the heading, ''Loss Allocation to Participants, backed by the Participants Fund,'' that provides that non-default losses could be allocated among Participants as provided in Rule 4. There is sentence that describes the timeframe in which such losses charged to Participants are required to be paid. Currently, this sentence states that losses are to be paid by Participants ''within 2 business days of the date of receipt of a notice of a loss allocation charge. . . .'' However, this is not the same language used to describe this timing in Rule 4. In order to be consistent with the language formulation set out in Rule 4, the proposed rule change would revise this sentence to state, ''Losses charged to Participants are required to be paid by Participants on the second business day after the Corporation issues any such notice of a loss allocation charge and may be charged to the Participant's Settlement Account when due.'' [28] The following sentence would remain as it is under the current Plan: ''If not timely paid by any Participant, the Corporation may apply the Participants Fund deposit of that Participant to satisfy its loss allocation obligation.''

Section 6.6 (Market Disruption and Force Majeure Rule) describes the Force Majeure Rule. The Force Majeure Rule was adopted at the same time as the Plan [29] and provides an additional resiliency tool designed to mitigate the risks caused by market disruption events and thereby minimize the risk of financial loss that may result from such events. The proposed rule change would remove the following phrase after the reference to the Force Majeure Rule in the first paragraph of this section, '', adopted in conjunction with this Plan,'' because it is not necessary as both the Plan and the Force Majeure Rule are no longer newly adopted. In addition, to remain consistent with the usage of ''Force Majeure'' and ''Market Disruption Event'' throughout this section, DTC would conform all references to the defined terms ''Force Majeure'' and ''Market Disruption Event'' so that they appear as capitalized terms.

The proposed rule change would also make revisions to the second paragraph of Section 6.6. First, for purposes of clarity and readability, the following text would be removed from the beginning of the second sentence: ''Most FMIs have rules designed to deal with force majeure or market disruption events, and.'' Second, the reference to ''Superstorm Sandy'' would be removed from the last sentence of this paragraph along with the related footnote that references Superstorm Sandy as an example of circumstances in which DTC needed to fashion a work-around necessitated by a force majeure event. DTC believes inclusion of references to Superstorm Sandy are outdated and no longer necessary to be included in the Plan.

C. Remove Provisions Covering Certain ''Business-as-Usual'' Actions

Section 8.6 (Actions and Preparation) of the Plan sets forth the legal framework and strategy for the orderly wind-down of DTC if the use of the recovery tools described in the Recovery Plan do not successfully return DTC to financial viability. This section includes an overview of the actions and preparations to be taken by DTC and DTCC in connection with executing the wind-down portions of the Plan. Section 8.6.1 (Business-as-Usual Actions) describes those actions DTC or DTCC may take to prepare for wind-down in the period before DTC experiences financial distress.

Under the current plan, the Business-as-Usual Actions are (i) educating the Board to keep them informed of the Plan and the actions the Board would need to take to implement it, (ii) engaging in discussions with key linked FMIs as to the key elements of DTC's wind-down strategy and the expected actions of the respective link parties should a wind-down be implemented, (iii) developing and maintaining an index of internal data that includes the critical, ancillary, and non-critical services that DTC provides to its membership, the support DTC receives from DTCC and from its other affiliates, key third-party vendors, key personnel, DTC assets and liabilities, and agreements and arrangements DTC has with liquidity providers and with other FMIs, (iv) developing administrative wind-down guidance that identifies key Board and management actions that would be taken during the Recovery Phase and ''Runway Period'' [30] prior to DTC's failure, and in connection with its Chapter 11 proceedings, and (v) preparing constituent documents for the Failover Entity [31] and evaluating capitalization options.

Pursuant to the proposed rule change, DTC would remove the Business-as-Usual Actions section (currently Section 8.6.1) in its entirety because each of the actions outlined have either been completed or would be addressed in DTC's internal procedures going forward. This includes certain documents necessary to effect the wind-down aspects of the Plan that were in the process of being finalized when the Plan was adopted and have since been completed. Since adoption of the Plan,[32] DTC has completed all necessary internal documentation, including DTCC's internal wind-down guidance, the constituent documentation for the Failover Entity, and the evaluation of DTC's capitalization options. Further, the other actions included in this section (*e.g.,* maintaining an index of non-critical services, educating the Board on the Plans) would be addressed, going forward, in DTCC's Recovery & Resolution Planning Procedures maintained by the R&R Team.[33] As a result of this proposed change, current Section 8.6.2 (Recovery and Runway Period Actions) would be renumbered as Section 8.6.1. Also, consistent with the proposed removal of Business-as-Usual Actions that have been completed, the proposed rule change would remove from the first sentence of proposed Section 8.6.1 (current Section 8.6.2) the words ''Among other things, the guidance would provide'' and replace them with ''The DTCC Clearing Agency Wind-

[26] Rule 4, *supra* note 5.

[27] As set forth in the Plan, DTC maintains the following four buckets of LNA, which can be applied towards a non-default loss: (i) General Business Risk Capital as determined in the Capital Policy, *supra* note 25, (ii) the Corporate Contribution, (iii) a ''Buffer,'' as described in the Capital Policy, and (iv) excess LNA, which refers to any available LNA held at DTC above the required amounts for General Business Risk Capital, the Corporate Contribution, and Buffer.

[28] Rule 4, *supra* note 5.

[29] *Supra* note 6.

[30] The Wind-down Plan identifies the time period leading up to a decision to wind-down DTC as the ''Runway Period.''

[31] As set forth in Section 8.4.1 (General Objectives and Approach) of the Plan, in the event that no viable or preferable third-party transferee timely commits to acquire the business and services of DTC, the transfer will be effectuated to a failover entity created for that purpose (referred to as the ''Failover Entity''), that would be owned by a trust held, to the extent of the value of the Failover Entity attributed to DTC's transferred business and services, for the benefit of DTC's bankruptcy estate.

[32] *Supra* note 6.

[33] The R&R Team is responsible for maintaining the DTCC ''Office of Recovery & Resolution Planning Procedures'' document. The purpose of these procedures is to communicate roles and responsibilities, and procedures for the documentation of the R&W Plans covering each of the Clearing Agencies, in compliance with applicable rules and regulations. These procedures also describe the biennial closeout simulation exercise whereby the Plans for each clearing agency are tested through the simulation of a multi-member default.

down Guidance developed in connection with this Plan provides.''

D. Technical Revisions

The proposal would also make several technical changes and corrections to the Plan. DTC believes that these proposed changes would not substantively alter the meaning of the applicable sections and would improve the overall readability and clarity of the Plan. Specifically, DTC is proposing to make the following changes and corrections:

1. In Section 1.3 (Summary), in the list of topics covered under the Plan, in the seventh bullet point, add ''Recovery Corridor and'' prior to the words ''Recovery Phase'' to correctly state the full name of this section of the Plan.

2. In Section 1.4 (Conventions), in the third paragraph, delete the words ''conjunction with'' and replace them with ''support of,'' and delete the words ''also adopted'' and replace them with ''maintains.'' Accordingly, under the proposed rule change, this paragraph would state, ''In support of this Plan, DTC maintains (a) a Market Disruption and Force Majeure Rule (the ''Force Majeure Rule{ XE ''Force Majeure Rule'' }'') and (b) a Wind-down of the Corporation Rule (the ''Wind-down Rule{ XE Wind-down Rule'' }''), each as described herein.''

3. In Section 2.1 (DTCC Business Profile), under the heading ''DTCC SIFMU Subsidiaries'':

• In the description of DTC's affiliated clearing agency, NSCC{ XE ''NSCC''}, add '', netting,'' after the word ''clearing''; and after the words ''exchange-traded,'' delete ''fund (''ETF'')'' and replace it with ''products (''ETPs'').''

• In the description of DTC's other affiliated clearing agency, FICC { XE ''FICC''}, with respect to the Government Securities Division (''GSD''), add the word ''netting,'' after ''clearing.''

• In the description of the Mortgage-Backed Securities Division (''MBSD{ XE ''MBSD'' }'') of FICC, delete the modifier ''To-Be-Announced'' before the phrase ''pass-through mortgage-backed securities issued by Ginnie Mae, Freddie Mac and Fannie Mae.''

• In the sentence that describes FICC's publication of the GCF Repo® Index, add the parenthetical ''(''GCF Repos®{ XE ''GCF Repos®'' }'')''after the words ''general collateral finance repurchase transactions.''

4. In Section 3.2 (Criteria Used to Determine Criticality), in the second sentence that currently states, ''Each service was assessed for criticality to determine the potential systemic impact from a service disruption,'' add the word ''resulting'' after the word ''impact.''

5. In Section 3.3 (DTC Critical Services List), make the following changes to Table 3–B (DTC Critical Services): (a) In the column titled ''Business Unit Activity,'' in the entry for ''8. European Pre-Issuance Messaging,'' remove the word ''European'' because this service is not specific to European issues, and (b) in the column titled ''Description,'' in the narrative for ''20. Mandatory and Voluntary Corporate Actions,'' remove the capitalization of the words ''Dutch Auctions.''

6. In Section 4.1 (DTCC and SIFMU Governance Structure), in the third paragraph, which lists each of the Board committees, delete ''Board'' before the words ''Risk Committee.'' Additionally, in the footnote in this section that provides the citation of a previous proposed rule change covering the Clearing Agency Risk Management Framework, add a reference to DTC's amended filing published July 9, 2020.

7. In Section 4.2 (Recovery Governance), in order to clarify the types of loss scenarios referred to, at the beginning of the third sentence, after the phrase ''As described throughout Section 5 (Participant Default Losses through the Crisis Continuum), indicators and measures have been defined for,'' add the modifier ''credit/market and liquidity'' before ''loss scenarios throughout the Crisis Continuum (as hereinafter defined).''

8. In Section 5.1 (Introduction), in the fourth paragraph, capitalize the word ''board.'' Additionally, in the footnote included in this section that provides the citation to a previous proposed rule change covering the Clearing Agency Liquidity Risk Management Framework, add a reference to DTC's amended filing published December 11, 2020.

9. In Section 5.2.3 (Participant Default Phase), in the last sentence, for the reference to ''Net Credit Reductions'' and the related footnote, remove the capitalization of the words ''Credit Reductions.''

10. In Section 5.3 (Liquidity Shortfalls):

• In Table 5–C, which lists the tools that can be used to address liquidity shortfalls, in the entry for ''Credit Facility,'' in the column titled ''Relevant Rules/Documents,'' (i) delete ''Currently, Section 2.03A(h) of the Credit Facility,'' because reference to a specific section of the credit facility documentation is not necessary, and (ii) for purposes of clarification and readability, revise the text of the description to state, ''The terms of the Credit Facility provide that any such voluntary loans would be secured on a pari passu basis with committed loans under the facility. This should provide comfort to such voluntary lenders that make voluntary loans in stress market conditions.''

• In the penultimate paragraph and in Table 5–C (in the entry for ''Net Credit Reductions,'' in the column titled ''Process and relevant governance''), remove the capitalization from the words ''Net Credit Reductions'' for purposes of consistency when these words are used throughout the Plan.

11. In Section 5.4 (Scenarios Not on Crisis Continuum), capitalize the word ''Phase'' after the words ''Stress Market.''

12. In Section 6.3 (Risk Mitigation), in the footnote that includes the citation to a previous proposed rule change covering the Clearing Agency Operational Risk Management Framework, add a reference to DTC's amended filing published December 16, 2020.

13. In Section 6.4 (Resources to Cover Non-Default Losses), in the footnote that includes the citation to a previous proposed rule change covering the Capital Policy and Capital Plan, add a reference to DTC's amended filings published July 27, 2020 with respect to the Capital Policy, and October 19, 2018 with respect to the Capital Plan.

14. In Section 6.6 (Market Disruption and Force Majeure Rule):

• In the second bullet point of the third paragraph, remove the quotation marks from the words ''Market Disruption Event'' and delete the parenthetical ''(as defined in the Force Majeure Rule)'' because Market Disruption Event was defined earlier in this section.

• In the second sentence of the fourth paragraph, for purposes of reflecting present tense, delete the word ''would'' before the word ''operate,'' and pluralize ''operate.''

• In the first sentence of the second paragraph:

○ For purposes of reflecting present tense and to improve readability, (a) remove the word ''currently'' prior to ''the Force Majeure Rule'' and (b) remove the words ''is designed to clarify,'' and replace them with ''clarifies,'' and

○ in order to correct a typographical error, insert the word ''and'' in between ''its Participants'' and ''to mitigate.''

15. In Section 7.1 (Comprehensiveness), for purposes of correcting a typographical error, remove the capitalization of the words ''Critical Services.''

16. In Section 7.2 (Effectiveness), under the heading ''Reliability,'' for the

purpose of correcting typographical errors, (a) move the second footnote, currently at the end of the last sentence, to the end of the last sentence of the introductory paragraph of Section 7.2 and (b) in the text of the other footnote that currently reads, ''See, for example, DTCC Whitepaper, *CCP Resiliency and Resources,* pg. 2, section 2 (June 2015),'' remove '', section 2.''

17. In Section 8.2.1 (Potential Scenarios), in the second sentence of the fifth paragraph, replace ''enhancements to the loss allocation process are'' with ''the loss allocation process is.'' Accordingly, under the proposed rule change this sentence would state, ''As noted above, the loss allocation process is designed so that the Participants Fund can be applied to losses arising from multiple Participant failures that occur during an ''Event Period'', and there can be successive rounds of loss allocations to address losses arising with respect to a given Event Period.''

18. In Section 8.4.1 (General Objectives and Approach), in the second paragraph, delete the words ''have been amended to'' after the words ''the Rules'' in order to more clearly reflect the fact that the Wind-down of the Corporation Rule [34] was adopted.

19. In Section 8.4.2 (Critical Services and FMI Link Arrangements), for purposes of addressing a typographical error, in the first sentence, after the words ''other information,'' remove the word ''and.''

20. In Section 8.4.4 (Rules Adopted in Connection with the Wind-down Plan), under the heading ''Certain Ex Ante Matters,'' in the first sentence add an ''a'' before the second use of the word ''Transferee.''

21. In Section 8.4.6 (Key Dependencies and Requirements for Effectiveness), in the last paragraph under the heading, ''Regulatory approvals,'' revise the word ''see'' to ''seek,'' to address a typographical error.

22. In proposed Section 8.6.1 (currently Section 8.6.2) (Recovery and Runway Period Actions), capitalize the word ''chapter'' in two places where ''chapter 11'' is not capitalized.

23. In Section 8.7 (Costs and Time to Effectuate Plan), (a) in the second sentence of the fifth paragraph, delete the word ''of'' between the words ''detailed'' and ''analysis,'' and (b) at the end of the last sentence of this section, delete the phrase '', as provided in the Capital Requirements Policy.'' As a result, under the proposed rule change, this sentence would state, ''The estimated wind-down costs amount will be reviewed and approved by the Board annually.''

24. In Appendix 1 (Defined Terms), add each of the new defined terms based on the addition of such terms to the Plan, and delete the defined terms that were removed based on the deletion of these terms from the Plan.

2. Statutory Basis

DTC believes that the proposal is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a registered clearing agency. In particular, DTC believes that the amendments to the R&W Plan are consistent with Section 17A(b)(3)(F) of the Act [35] and Rule 17Ad–22(e)(3)(ii) under the Act,[36] for the reasons described below.

Section 17A(b)(3)(F) of the Act requires, in part, that the rules of DTC be designed to promote the prompt and accurate clearance and settlement of securities transactions.[37] The Recovery Plan serves to promote the prompt and accurate clearance and settlement of securities transactions by providing DTC with a roadmap for the actions it may employ to mitigate losses, and monitor and, as needed, stabilize DTC's financial condition, which would allow it to continue its critical clearance and settlement services in stress situations. The Recovery Plan is designed to identify the actions and tools that DTC may use to address and minimize losses to both DTC and its Participants, and provide DTC management and the Board with guidance in this regard by identifying the indicators and governance around the use and application of such tools to enable them to address stress situations in a manner most appropriate for the circumstances. Further, the Wind-down Plan establishes a framework for the transfer and orderly wind-down of DTC's business and is designed to facilitate the continuity of DTC's critical services. It establishes clear mechanisms for the transfer of DTC's critical services and membership as well as clear provisions for the transfer of the securities inventory DTC holds in fungible bulk for Participants. By doing so, the Wind-down Plan enables Participants and Pledgees to maintain access to DTC's services in the event DTC defaults or the Wind-down Plan is triggered by the Board.

As described above, the proposed rule change would update the R&W Plan to (i) reflect business and product developments, (ii) make certain clarifications, (iii) remove provisions covering certain ''business-as-usual'' actions, and (iv) make certain technical corrections. By helping to ensure that the R&W Plan reflects current business and product developments, and providing additional clarity regarding the framework for the transfer and orderly wind-down of DTC's business, DTC believes that the proposed rule change would help it continue to maintain the Plan in a manner that supports the continuity of DTC's critical services and enables its Participants and Pledgees to maintain access to DTC's services through the transfer of its membership in the event DTC defaults or the Wind-down Plan is ever triggered by the Board. Further, by facilitating the continuity of its critical clearance and settlement services, DTC believes the Plan and the proposed rule change would continue to promote the prompt and accurate clearance and settlement of securities transactions. Therefore, DTC believes the proposed amendments to the R&W Plan are consistent with the requirements of Section 17A(b)(3)(F) of the Act.

Rule 17Ad–22(e)(3)(ii) under the Act requires DTC to establish, implement, maintain and enforce written policies and procedures reasonably designed to maintain a sound risk management framework for comprehensively managing legal, credit, liquidity, operational, general business, investment, custody, and other risks that arise in or are borne by the covered clearing agency, which includes plans for the recovery and orderly wind-down of the covered clearing agency necessitated by credit losses, liquidity shortfalls, losses from general business risk, or any other losses.[38] The R&W Plan is designed to comply with Rule 17Ad–22(e)(3)(ii) and is consistent with the Act because it provides plans for the recovery and orderly wind-down of DTC necessitated by credit losses, liquidity shortfalls, losses from general business risk, or any other losses.

Specifically, the Recovery Plan defines the risk management activities, stress conditions and indicators, and tools that DTC may use to address stress scenarios that could eventually prevent it from being able to provide its critical services as a going concern. Through the framework of the Crisis Continuum, the Recovery Plan addresses measures that DTC may take to address risks of credit losses and liquidity shortfalls, and other losses that could arise from a Participant default. The Recovery Plan also addresses the management of general business risks and other non-default

[34] *Supra* note 6.

[35] 15 U.S.C. 78q–1(b)(3)(F).

[36] 17 CFR 240.17Ad–22(e)(3)(ii).

[37] 15 U.S.C. 78q–1(b)(3)(F).

[38] 17 CFR 240.17Ad–22(e)(3)(ii).

risks that could lead to losses. The Wind-down Plan would be triggered by a determination by the Board that recovery efforts have not been, or are unlikely to be, successful in returning DTC to viability as a going concern. Once triggered, the Wind-down Plan sets forth clear mechanisms for the transfer of DTC's membership and business, and is designed to facilitate continued access to DTC's critical services and to minimize market impact of the transfer. By establishing the framework and strategy for the execution of the transfer and wind-down of DTC in order to facilitate continuous access to its critical services, the Wind-down Plan establishes a plan for the orderly wind-down of DTC.

As described above, the proposed rule change would update the R&W Plan to (i) reflect business and product developments, (ii) make certain clarifications, (iii) remove provisions covering certain ''business-as-usual'' actions, and (iv) make certain technical corrections. By ensuring that material provisions of the Plan are current, clear, and technically correct, DTC believes that the proposed amendments are designed to support the maintenance of the Plan for the recovery and orderly wind-down of the covered clearing agency necessitated by credit losses, liquidity shortfalls, losses from general business risk, or any other losses, and, as such, meets the requirements of Rule 17Ad–22(e)(3)(ii) under the Act.[39] Therefore, the proposed changes would help DTC to maintain the Plan in a way that continues to be consistent with the requirements of Rule 17Ad–22(e)(3)(ii).

(B) Clearing Agency's Statement on Burden on Competition

DTC does not believe that the proposed rule change would have any impact, or impose any burden, on competition. DTC does not anticipate that the proposal would affect its day-to-day operations under normal circumstances, or in the management of a typical Participant default scenario or non-default event. The R&W Plan was developed and documented in order to satisfy applicable regulatory requirements, as discussed above. The proposal is intended to enhance and update the Plan to ensure it is clear and remains current in the event it is ever necessary to be implemented. The proposed revisions would not effect any changes to the overall structure or operation of the Plan or DTC's recovery and wind-down strategy as set forth under the current Plan. As such, DTC believes the proposal would not have any impact, or impose any burden, on competition.

(C) Clearing Agency's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

DTC has not received or solicited any written comments relating to this proposal. DTC will notify the Commission of any written comments received by DTC.

III. Date of Effectiveness of the Proposed Rule Change, and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)[40] of the Act and paragraph (f)[41] of Rule 19b–4 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.

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–DTC–2021–004 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549.

All submissions should refer to File Number SR–DTC–2021–004. 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 DTC and on DTCC's website (*http://dtcc.com/legal/sec-rule-filings.aspx*). 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–DTC–2021–004 and should be submitted on or before April 23, 2021.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[42]

J. Matthew DeLesDernier,

Assistant Secretary.

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[39] *Id.*

[40] 15 U.S.C 78s(b)(3)(A).

[41] 17 CFR 240.19b–4(f).

[42] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–91431; File No. SR–CBOE–2021–018]

Self-Regulatory Organizations; Cboe Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Rule 5.34 Relating to Its Fat Finger Check in Connection With Multi-Class Spread Orders

March 29, 2021.

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 March 17, 2021, Cboe Exchange, Inc. (the ''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 Exchange filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

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.

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 amend Rule 5.34 in connection with its fat finger check in connection with Multi-Class Spread Orders. The text of the proposed rule change is provided below.

(additions are *italicized;* deletions are [bracketed])

* * * * *

Rules of Cboe Exchange, Inc.

* * * * *

Rule 5.34. Order and Quote Price Protection Mechanisms and Risk Controls

(a)–(b) No change.

(c) *All Orders.*

(1) Limit Order Fat Finger Check. If a User submits a buy (sell) limit order to the System with a price that is more than a buffer amount above (below) the NBO (NBB) for simple orders or the SNBO (SNBB) for complex orders, the System cancels or rejects the order. The Exchange determines a default buffer amount on a class-by-class basis; however, a User may establish a higher or lower amount than the Exchange default for a class.

(A)–(D) No change.

(E) This check does not apply to Multi-Class Spread Orders.

* * * * *

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.

[3] 15 U.S.C. 78s(b)(3)(A)(iii).

[4] 17 CFR 240.19b–4(f)(6).

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 Rule 5.34(c)(1), which governs its fat finger check, to provide that the check will not apply to Multi-Class Spread Orders.[5]

Currently, Rule 5.34 provides for a fat finger check applicable to both simple and complex orders, including those that are routed to PAR. Specifically, Rule 5.34(c)(1) provides that, if a User submits a buy (sell) limit order to the System with a price that is more than a buffer amount above (below) the NBO (NBB) for simple orders or the SNBO (SNBB) for complex orders,[6] the System cancels or rejects the order. The Exchange determines a default buffer amount on a class-by-class basis; however, a User may establish a higher or lower amount than the Exchange default for a class. Pursuant to Rule 5.34(c)(1)(B) through (D), the check currently does not apply to complex orders prior to the conclusion of the Opening Process, when no NBBO or SNBBO, as applicable, is available, or to bulk messages or Stop-Limit orders. The Exchange proposes to adopt subparagraph (c)(1)(E) which adds Multi-Class Spread Orders as additional orders to which the fat finger check does not apply.

Specifically, a Multi-Class Spread Order is an order or quote to buy a stated number of contracts of a Broad-Based Index Option[7] and to sell an equal number, or an equivalent number, of contracts of a related Broad-Based Index Option. For example, a Multi-Class Spread Order could be composed of a leg to buy 10 contracts in iShares Russell 2000 ETF (''IWM'') options and a leg to sell one contract in Russell 2000 Index (''RUT'') options, as IWM is an exchange-traded fund (''ETF'') that tracks the performance of the RUT Index and is 1/10th the value of the RUT Index. Therefore, a spread order with a 10:1 ratio in IWM and RUT options creates an equivalent number of contracts of related Broad-Based Index Options and constitutes a Multi-Class Spread Order pursuant to the Exchange Rules. Multi-Class Spread Orders may only execute on the Exchange's trading floor and are therefore routed to PAR for manual handling (and open outcry trading).[8] Specifically, Rule 5.34 provides that the System's acceptance and execution of orders, quotes, and bulk messages, as applicable, pursuant to the Rules, including Rules 5.31 through 5.33, and orders routed to PAR pursuant to Rule 5.82 are subject to the price protection mechanisms and risk controls (provided in Rule 5.34), as applicable. As such, the price protections and risk mechanisms under Rule 5.34, including the fat finger check, currently apply to Multi-Class Spread Orders upon routing to PAR.

Currently, separate servers (*i.e.,* match engines) in the System have direct access to and are able to process market information for individual classes and orders in those classes. For example, one match engine has direct access to the Exchange's BBO[9] for RUT options and sends that BBO information to the Options Price Reporting Authority (''OPRA'') for consolidation into and dissemination of the NBBO, and also processes incoming orders (including complex orders) in RUT options, while another match engine does the same for IWM options. Each single-class match engine also continuously intakes away market pricing information (*i.e.* the ABBO)[10] from OPRA applicable to the class that resides on it. As such, the pricing information regarding the NBBO (that is, the BBO and the ABBO) necessary to calculate the SNBBO applicable to a complex order in an individual class essentially ''lives'' on a particular match engine, thereby allowing that particular match engine to continuously calculate the SNBBO for

[5] *See* Rules 5.6(c) and 5.85(d).

[6] The SNBBO is the national best bid and offer for a complex strategy calculated using the NBBO for each component of a complex strategy. *See* Rule 5.33(a).

[7] For the purposes of a Multi-Class Spread Order, a Broad-Based Index Option includes Broad-Based Indexes, ETF and ETNs. *See* Rule 5.6(c).

[8] Like any other order submitted for open outcry execution, a Multi-Class Spread Order is systematized and submitted to PAR (and the applicable price protection mechanisms and risk controls are applied upon submission to PAR). Once on a PAR workstation, a Floor Broker or PAR Official, as applicable, may then represent the order to a trading crowd. The trading crowd provides a range of the prices at which they are willing to trade. Specifically, a Multi-Class Spread Order may be represented at a trading station at which one of the applicable classes trades (*i.e.,* a primary trading station). Immediately after (or concurrent with) the announcement of the order at the primary trading station, the representing TPH must contact the Designated Primary Market-Maker (DPM), Lead Market-Maker (LMM) or appropriate Exchange staff at the trading station where the other applicable class trades to announce the order to the other trading crowd. *See* Rule 5.85(d). The Floor Broker may then execute the Multi-Class Spread Order against quotes provided from the crowd, in accordance with priority principles set forth in Rule 5.85(a).

[9] The term ''BBO'' means the best bid or offer disseminated on the Exchange. *See* Rule 1.1.

[10] The term ''ABBO'' means the best bid(s) or offer(s) disseminated by other Eligible Exchanges (as defined in Rule 5.65) and calculated by the Exchange based on market information the Exchange receives from OPRA. *See* Rule 1.1.

complex orders in that individual class without delay.

There is also a separate match engine in the System that is specifically dedicated to cross-class orders. This match engine would process, for example, an incoming RUT/IWM Multi-Class Spread Order. Unlike the single-class match engines, the pricing information regarding the NBBOs that are necessary to calculate the SNBBOs applicable to Multi-Class Spread Orders do not ''live'' on the cross-class match engine. That is, the cross-class match engine does not have direct access to the BBOs that reside on the Exchange's single class match engines, nor does it continuously stream the necessary away market ABBO pricing information from OPRA, for each class that could possibly comprise the legs of a Multi-Class Spread Order.[11] The Exchange notes that technical limitations prevent the different, single-class match engines from directly sending the Exchange's BBO information to the cross-class match engine, or the cross-class match engine from continuously receiving ABBO pricing information from OPRA that may be applicable to the leg markets of a Multi-Class Spread Order given the significant amount of ABBO leg market information from OPRA that would be necessary to apply the fat finger check to all possible leg combinations for Multi-Class Spread Orders.[12] As a result, the cross-class match engine does not receive all of the necessary pricing information regarding the NBBOs from OPRA for each leg of an incoming Multi-Class Spread Order to generate an SNBBO for that order. Because the cross-class match engine has no NBBOs for the leg markets of an incoming Multi-Class Spread Order at the time it receives the order, it assumes that the NBBOs applicable to the leg markets of an incoming Multi-Class Spread Order are zero. As such, when the cross-class match engine receives a Multi-Class Spread Order, it then attempts to calculate the SNBBO for the legs of a Multi-Class Spread Order pursuant to Rule 5.33(h)(3). Rule 5.33(h)(3) provides that, in relevant part, if there is a zero NBB and zero NBO, the System replaces the zero NBB with a price equal to one minimum increment and replaces the zero NBO with a price equal to two minimum increments. Such a resulting SNBBO is unlikely to represent the actual market for a Multi-Class Spread Order. Therefore, the cross-class match engine is currently unable to determine an SNBBO that accurately reflects leg market prices that comprise Multi-Class Spread Orders. As a result, this match engine regularly rejects Multi-Class Spread Orders that may otherwise be appropriately priced around the current leg market NBBOs.

The Exchange has received feedback from Users that the current application of the fat finger check to Multi-Class Spread Orders (which are floor-only) is too limited.[13] Indeed, the primary purpose of the fat finger check is to prevent limit orders from executing at potentially erroneous prices upon entry if the limit prices are too far away from the then-current SNBBO. As stated, the System is unable to calculate the SNBBO for the fat finger check in a manner that accurately reflects current leg market prices for Multi-Class Spread Orders due to the technical limitations that prevent the cross-class match engine from receiving all possible NBBOs necessary to calculate the SNBBOs applicable to Multi-Class Spread Orders. As a result, the cross-class match engine calculates SNBBOs for the fat finger check applicable an incoming Multi-Class Spread Order under the assumption that the NBBO values for the orders' leg markets are zero. That is, it attempts to substitute the minimum increment spread for each leg market of the Multi-Class Spread Order to calculate an SNBBO for the fat finger check and, therefore, the fat finger check applied may not provide the most accurate reflection of the best prices currently available in those leg markets. As a result, the System may reject Multi-Class Spread Orders for being too far away from the substitute SNBBO, even though such orders may otherwise be legitimately priced around the leg markets at the time those orders were entered.

The Exchange notes that a User's Multi-Class Spread Orders would still be subject to other price protections already in place on the Exchange. Particularly, all Multi-Class Spread Orders are always subject to manual handling, which permits opportunities for brokers to evaluate the prices of orders based on then-existing market conditions and, thus, creates minimal risk of executions at erroneous prices. Additionally, the System applies various price checks for complex orders, such as: A debit/credit reasonability check (which rejects a complex order that is a limit order for a debit (credit) strategy with a net credit (debit) price that exceeds a pre-set buffer or a market order for a credit strategy that would execute at a net debit price that exceeds a pre-set buffer);[14] and a maximum value acceptable price range check (which rejects an order that is a vertical, true butterfly, or box spread and is a limit order with, or a market order that would execute at, a price that is outside of an acceptable price range, set by the minimum and maximum possible value of the spread, subject to an additional buffer amount).[15] Overall, the Exchange believes the proposed rule change will provide additional execution opportunities for Multi-Class Spread Orders while continuing to provide protection against executions at prices that may be erroneous.

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.[16] Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)[17] 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 investors and the public interest.

[11] The only NBBO information that the cross-class match engine streams directly from OPRA is for SPX/SPXW. The match engine dedicated to SPX/SPXW first sends to OPRA the SPX/SPXW BBOs from that match engine, and OPRA then disseminates to the wider market the NBBO pricing information for SPX/SPXW (which are also the BBOs for SPX/SPXW) at which point the cross-class match engine then receives the SPX/SPXW NBBO information from OPRA.

[12] The Exchange notes that the substantial possible combinations of classes that may comprise Multi-Class Spread Orders results in a significant amount of market information that must be funneled into the one match engine dedicated to cross-class orders. The System does not have unlimited capacity and is unable to directly feed all leg market prices that could potentially comprise a Multi-Class Spread Order into the single cross-class match engine without potentially creating a delay in the cross-class match engine's processing capacity. The Exchange notes that there are currently 32 different classes eligible to comprise the legs of a Multi-Class Spread Order. The Exchange believes it would be an inefficient use of capacity to stream data for all classes into the cross-class match engine, as most of that information would not be used.

[13] The Exchange notes that such instances and, consequently, User feedback given to the Exchange regarding the fat finger limitations in connection with their Multi-Class Spread Orders, have occurred as a result of the Exchange's technology migration completed in October 2019.

[14] *See* Rule 5.34(b)(3).

[15] *See* Rule 5.34(b)(5).

[16] 15 U.S.C. 78f(b).

[17] 15 U.S.C. 78f(b)(5).

Additionally, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5) [18] 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 the proposed rule change to exclude Multi-Class Spread Orders from the fat finger check removes impediments to and perfects the mechanism of a free and open market and a national market system, and, in general, protects investors and the public interest by providing additional execution opportunities for cross-class orders that may be appropriately priced in connection with current leg market prices. The proposed change is intended to benefit investors, from which the Exchange has received feedback regarding the current limitations of the fat finger check for Multi-Class Spread Orders. The Exchange believes the proposed rule change will permit the System to accept these investors' orders that may be submitted with prices that accurately reflect current leg markets instead of rejecting them because of the fat finger check's substitution of NBBO information to calculate an applicable SNBBO due to technical limitations that prevent the cross-class match engine from receiving the pricing information regarding the NBBOs for the applicable leg markets of an incoming Multi-Class Spread Order, as it cannot directly access and continuously intake the same information through the System. As a result, the Exchange believes the proposed rule change may increase execution opportunities for investors by allowing their floor-based orders an opportunity to be manually represented in open outcry instead of being rejected by the System before even arriving at PAR for manual handling.[19]

Moreover, the Exchange believes that the proposed rule change is consistent with the general protection of investors because, pursuant to Rule 5.34(c)(1)(C), the System currently does not apply the fat finger check in instances in which the SNBBO is not available and the System therefore cannot apply an appropriate buffer. Similarly, due to technical limitations, the SNBBO is not available for Multi-Class Spread Orders and while the System uses an available substitute, this may not accurately reflect current leg market prices. Therefore, the proposed rule change excludes such orders from the fat finger for essentially the same reasons as Rule 5.34(c)(1)(C)—that the SNBBO may not be available in order to provide the System with an accurate measure to which it may apply an appropriate fat finger buffer. Additionally, other price protections and safeguards, such as real-time broker evaluation of floor-based pricing and other System-applied price checks, will continue to apply to Multi-Class Spread Orders, and thereby will continue to provide protection against executions at prices that may be erroneous.

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 does not believe that the proposed rule change will impose any burden on intramarket competition that is not necessary or appropriate in furtherance of the purposes of the Act because all Users' Multi-Class Spread Orders will be excluded from the fat finger check in the same manner. The Exchange notes that the Rules currently exclude other types of orders from the fat finger check. Also, as described above, all Users' Multi-Class Spread Orders will continue to be subject to other specific price controls or safeguards, such as real-time broker evaluation of floor-based pricing and other System-applied price checks, which provide protection against executions at prices that may be erroneous.

The Exchange does not believe that the proposed rule change will impose any burden on intermarket competition that is not necessary or appropriate in furtherance of the purposes of the Act because it relates solely to whether the System will accept certain orders for execution on the Exchange [sic] The Exchange believes the proposed rule change would provide all market participants with additional execution opportunities in connection with their Multi-Class Spread Orders while still providing protection from anomalous or erroneous executions. To the extent that market participants find the proposed exclusion of the fat finger check to their complex strategies more favorable for execution of such orders, other exchanges may adopt functionality to similarly handle such complex strategies.

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

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act [20] and Rule 19b–4(f)(6) thereunder.[21] Because the proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative prior to 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b–4(f)(6)(iii) thereunder.

A proposed rule change filed under Rule 19b–4(f)(6) [22] normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b–4(f)(6)(iii),[23] 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 will allow the Exchange to mitigate as soon as practicable the limitations associated with the fat finger check by permitting the System to accept legitimately priced Multi-Class Spreads Orders that the System currently rejects inappropriately because it uses an SNBBO calculated with substitute NBBO information. The System's acceptance of these Multi-Class Spread Orders will allow additional execution opportunities for these orders. The Exchange notes that Multi-Class Spread Orders will continue to be subject to other price protections and safeguards that serve to protect against executions at prices that may be erroneous. The Commission believes that excluding Multi-Class Spread Orders from the fat finger check will benefit investors by providing execution opportunities for Multi-Class Spread Orders that are priced accurately based on current leg market prices but that the System currently rejects because, as described above, the System determines the SNBBO required by the price check using a substitute NBBO calculation, as provided in Cboe Rule 5.33(h)(3), as a result of system limitations that prevent

[18] *Id.*

[19] *See supra* note 8.

[20] 15 U.S.C. 78s(b)(3)(A)(iii).

[21] 17 CFR 240.19b–4(f)(6).

[22] 17 CFR 240.19b–4(f)(6).

[23] 17 CFR 240.19b–4(f)(6)(iii).

the cross-class server from receiving BBO and ABBO information for the classes that could be components of a Multi-Class Spread Order. The proposal will allow accurately priced Multi-Class Spread Orders to be represented in open outcry rather than being rejected inappropriately when they are submitted to PAR. The Commission notes that the Exchange has received feedback from investors indicating that the current application of the fat finger check to Multi-Class Spread Orders is too limited. In addition, the Commission notes that Multi-Class Spread Orders, which trade only on the Exchange's floor, will continue to be subject to other safeguards, including real-time broker evaluation of floor-based pricing and other System-applied price checks that are designed to provide protection against executions at prices that may be erroneous. The Commission also notes that the Exchange will announce the implementation of the proposal to Trading Permit Holders in advance via Trade Desk Notice. For these reasons, 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.[24]

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)[25] 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–CBOE–2021–018 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–2021–018. 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–2021–018, and should be submitted on or before April 23, 2021.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[26]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2021–06776 Filed 4–1–21; 8:45 am]

BILLING CODE 8011–01–P

[24] 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).

[25] 15 U.S.C. 78s(b)(2)(B).

[26] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–91430; File No. SR–FICC–2021–002]

Self-Regulatory Organizations; Fixed Income Clearing Corporation; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend the Recovery & Wind-Down Plan

March 29, 2021.

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 March 23, 2021, Fixed Income Clearing Corporation (''FICC'') 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 clearing agency. FICC filed the proposed rule change pursuant to Section 19(b)(3)(A) of the Act[3] and Rule 19b–4(f)(4) thereunder.[4] The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Clearing Agency's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change[5] consists of amendments to the R&W Plan to (i) reflect business and product developments, (ii) make certain changes to improve the clarity of the Plan, (iii) remove provisions covering certain ''business-as-usual'' actions, and (iv) make certain technical corrections, as described in greater detail below.

II. Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the clearing agency 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 clearing agency has prepared summaries, set forth in sections A, B,

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A).

[4] 17 CFR 240.19b–4(f)(4).

[5] Capitalized terms not defined herein are defined in the FICC Government Securities Division (''GSD'') Rulebook (the ''GSD Rules'') or the FICC Mortgage-Backed Securities Division (''MBSD'') Clearing Rules (the ''MBSD Rules,'' and collectively with the GSD Rules, the ''Rules''), *available at https://www.dtcc.com/legal/rules-and-procedures,* or in the Recovery & Wind-down Plan of FICC (the ''R&W Plan'' or ''Plan'').

and C below, of the most significant aspects of such statements.

(A) Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The proposed rule change would amend the R&W Plan to (i) reflect business and product developments, (ii) make certain changes to improve the clarity of the Plan, (iii) remove provisions covering certain ''business-as-usual'' actions, and (iv) make certain technical corrections. Each of the proposed revisions is further described below.

Background

The R&W Plan was adopted in August 2018 [6] and is maintained by FICC for compliance with Rule 17Ad–22(e)(3)(ii) under the Act.[7] The R&W Plan sets forth the plan to be used by the Board and FICC management in the event FICC encounters scenarios that could potentially prevent it from being able to provide its critical services as a going concern. The R&W Plan is structured as a roadmap that defines the strategy and identifies the tools available to FICC to either (i) recover, in the event it experiences losses that exceed its prefunded resources (such strategies and tools referred to herein as the ''Recovery Plan''), or (ii) wind-down its business in a manner designed to permit the continuation of FICC's critical services in the event that such recovery efforts are not successful (such strategies and tools referred to herein as the ''Wind-down Plan''). The recovery tools available to FICC are intended to address the risks of (a) uncovered losses or liquidity shortfalls resulting from the default of one or more of its Members,[8] and (b) losses arising from non-default events, such as damage to FICC's physical assets, a cyber-attack, or custody and investment losses, and the strategy for implementation of such tools. The R&W Plan also describes the strategy and framework for the orderly wind-down of FICC and the transfer of its business in the event the implementation of the available recovery tools does not successfully return FICC to financial viability.

The R&W Plan is managed and developed by FICC's parent company, the Depository Trust & Clearing Corporation (''DTCC''),[9] and is managed by the Office of Recovery & Resolution Planning (referred to in the Plan as the ''R&R Team'') on behalf of FICC, with review and oversight by the DTCC Management Committee and the Board.

Proposed Amendments to the R&W Plan

The Board, or such committees as may be delegated authority by the Board from time to time pursuant to its charter, is required to review and approve the R&W Plan biennially.[10] In connection with the first biennial review of the Plan, FICC is proposing the revisions described in greater detail below. The proposed rule change is designed to update and enhance the clarity of the Plan to ensure it is current in the event it is ever necessary to be implemented. None of the proposed changes modify FICC's general objectives and approach with respect to its recovery and wind-down strategy as set forth under the current Plan.

A. Proposed Changes To Reflect Business or Product Developments

1. GSD Clearing Bank Update

Section 2 (Business Overview) of the R&W Plan describes DTCC's business profile and includes a summary of the services of FICC offered by each of GSD and MBSD (collectively, the ''Divisions''). Under the current Plan, the section that summarizes GSD's services (Section 2.2) states that GSD employs the services of two clearing banks, The Bank of New York Mellon (''BNY{XE ''BNY''}'') and JPMorgan Chase Bank, N.A. (''JPM''), in which Members may instruct their clearing bank to transfer securities. The proposed rule change would delete all references in this section, and an associated footnote, to JPM as a GSD clearing bank. FICC is proposing this change because since the time the Plan was adopted, JPM exited the business of providing U.S. government clearing services. Going forward, the Plan would refer only to BNY as GSD's clearing bank.

2. Updates to DTCC Business Profile, Intercompany Arrangements, FMI Links and Governance

FICC is proposing the following changes to the DTCC Business Profile, Intercompany Arrangements, FMI Links and Governance sections of the Plan based upon business updates that have occurred since the time the Plan was adopted.

Section 2.1 (DTCC Business Profile) of the Plan describes that DTCC is a user-owned and user governed holding company for a group of direct and indirect subsidiaries and joint ventures. This section includes a brief summary of each of the three subsidiaries (DTC, FICC and NSCC) that have been designated as systemically important financial market utilities (''SIFMUs'') by the Financial Stability Oversight Council. The proposed rule change would revise the introductory paragraph of this section to remove reference to joint ventures because DTCC currently has no joint ventures.

Section 2.4 (Intercompany Arrangements) of the Plan currently describes how corporate support services are provided to FICC from DTCC, and to DTCC's other subsidiaries through intercompany agreements under a shared services model. FICC is proposing to update Table 2–A (SIFMU Legal Entity Structure and Intercompany Agreements), which delineates FICC's affiliates to reflect the name change of Omgeo Pte Ltd by removing ''Omgeo Pte Ltd'' and replacing it with the new name of this entity, ''DTCC Singapore Pte. Ltd.'' A related footnote would also be added to make clear that the services provided by DTCC Singapore Pte. Ltd. are performed through its branch office in Manila, DTCC Manila. Additionally, this section includes a separate table, Table 2–B, that lists each of the DTCC facilities utilized by the Clearing Agencies and indicates whether the facility is owned or leased by DTCC. FICC proposes to update this table to add Boston, Massachusetts as an additional location of a DTCC facility and to indicate that this facility is leased by DTCC.

Currently, Section 2.5 (FMI Links) of the Plan describes some, but not all, of the key financial market infrastructures (''FMIs'') that FICC has identified as critical ''links.'' [11] In order to better

[6] *See* Securities Exchange Act Release Nos. 83973 (August 28, 2018), 83 FR 44942 (September 4, 2018) (SR–FICC–2017–021); and 83954 (August 27, 2018), 83 FR 44361 (August 30, 2018) (SR–FICC–2017–805).

[7] 17 CFR 240.17Ad–22(e)(3)(ii). FICC is a ''covered clearing agency'' as defined in Rule 17Ad–22(a)(5) under the Act and must comply with paragraph (e) of Rule 17Ad–22.

[8] References herein to ''Members'' refer to GSD Netting Members and MBSD Clearing Members. References herein to ''Limited Members'' refer to participants of GSD or MBSD other than GSD Netting Members and MBSD Clearing Members, including, for example, GSD Comparison-Only Members, GSD Sponsored Members, GSD CCIT Members, and MBSD EPN Users.

[9] DTCC operates on a shared service model with respect to FICC and its other affiliated clearing agencies, The Depository Trust Company{XE ''NSCC''} (''DTC'') and National Securities Clearing Corporation (''NSCC''). Most corporate functions are established and managed on an enterprise-wide basis pursuant to intercompany agreements under which it is generally DTCC that provides relevant services to FICC, DTC {XE ''NSCC''} and NSCC (collectively, the ''Clearing Agencies'').

[10] *Supra* note 6.

[11] As defined in Rule 17Ad–22(a)(8) under the Act, a link ''means, for purposes of paragraph (e)(20) of [Rule 17Ad–22], a set of contractual and

Continued

align with the structure of DTCC's inventory of links maintained by DTCC's Systemic Risk Office (''SRO''), which includes all of FICC's link relationships, the proposed rule change would delete the current ''FMI Links'' section of the R&W Plan and replace it with a revised version of Section 2.5 that would include an overview of FICC's link arrangements, a related footnote to the definition of a ''link'' under Rule 17Ad–22(a)(8) under the Act, and a table, (Table 2–C: Links) listing all of FICC's FMI link arrangements. The table would list the link, the link category (*i.e.,* CCP Cross-Margining or Cross-Guaranty Arrangements), and a brief description. The proposed rule change would also add a table (Table 2–D: Schedule A Relationships) that would identify certain critical external service providers that, as determined by FICC's management, do not meet the specified criteria of ''link'' but nevertheless are subject to the same review process as is conducted for links, referred to within FICC as ''Schedule A Relationships,'' and a related footnote. This change would align with the structure of SRO's inventory of Schedule A Relationships.

Section 4.3 (Recovery and Wind-down Program Governance) of the Plan currently contains a paragraph that identifies DTCC's ''R&R Steering Group'' as the internal group responsible for ensuring that each of the Clearing Agencies observes recovery planning requirements, and that recovery planning is integrated into the Clearing Agencies' overall governance processes including the preparation, review, and filing of the Clearing Agencies' R&W Plans. Pursuant to the proposed rule change, FICC would revise Section 4.3 to reflect an internal organizational name change. The proposal would change the name of the R&R Steering Group to the ''Recovery and Wind-down Planning Council'' to reflect its role as an advisory body.[12] This name change would not change the composition, role or responsibilities of this internal group, which includes selected members of DTCC's Management Committee and members of DTCC's financial and operational risk management, product management, legal and treasury/finance teams that are responsible for providing strategic guidance and direction for the recovery and wind-down program[13] and the Plan. Additionally, for purposes of clarification, the proposal would add the words '', where necessary,'' to refer to when the council would engage with internal working groups.

3. Update to GSD's Critical Services

Section 3 (Critical Services) of the Plan defines the criteria for classifying certain of FICC's services as ''critical,''[14] and identifies such critical services and the rationale for their classification. The identification of FICC's critical services is important for evaluating how the recovery tools and the wind-down strategy would facilitate and provide for the continuation of FICC's critical services to the markets it serves. This section also includes a list of indicative non-critical services.

This section includes a table (Table 3–B: GSD Critical Services) that lists each of the services, functions or activities of GSD that FICC has identified as ''critical'' based on the applicability of the criteria. There is also a table listing MBSD's critical services (Table 3–C: MBSD Critical Services). The proposed rule change would update Table 3–B to add two services, which were implemented since the time the Plan was adopted,[15] that FICC has classified as critical services.

First, the proposed rule change would add the Centrally Cleared Institutional Triparty (''CCIT'') service.[16] The text of the description of this service would state that the CCIT service extends central counterparty (''CCP'') services and guarantee of completion of eligible trades to tri-party repo transactions between GSD dealer members and eligible tri-party money lenders. In the column that delineates the determinants for the classification of CCIT as a critical service, it would denote by check marks that this is because of (i) a lack of alternative providers and products, (ii) a failure/disruption of CCP services (impact on credit availability), and (iii) a failure/disruption of cash payment processing services (impact on credit and liquidity).

Second, the sponsored membership service[17] would be added as a critical service. The text of the description would state that sponsored membership offers eligible GSD Netting Members the ability to engage in FICC-cleared cash lending and cash borrowing transactions in U.S. Treasury and agency securities and outright purchases and sales of such securities. Sponsoring Members facilitate their sponsored clients' GSD trading activity and act as processing agents on their behalf for all operational functions, including trade submission and settlement with the CCP. In the column that delineates the determinants for the classification of sponsored membership as a critical service, it would denote by check marks that this is because of (i) a lack of alternative providers and products, (ii) a failure/disruption of CCP services (impact on credit availability), (iii) a failure/disruption of multilateral netting services (impact on liquidity) (iv) a failure/disruption of cash payment processing services (impact on credit and liquidity), and (v) a failure/disruption of cash payment processing services (impact on credit and liquidity).

Also, the proposed rule change would enhance the current description of the GSD critical service, GSD RTTM®, by adding as the first sentence, ''Provides a common electronic platform for collecting and matching trade data, enabling the parties to trade, monitor and manage the status of their trade activity in real-time.''

B. Proposal To Make Certain Clarifications to the R&W Plan

1. Business Overview/MBSD Services

As described above, Section 2 (Business Overview) of the R&W Plan

operational arrangements between two or more clearing agencies, financial market utilities, or trading markets that connect them directly or indirectly for the purposes of participating in settlement, cross margining, expanding their services to additional instruments or participants, or for any other purposes material to their business.'' 17 CFR 240.17Ad–22(a)(8).

[12] In accordance with DTCC's Policy on Governance of Internal Committees and Councils, a ''council'' is defined as an advisory body that has no decision-making authority. A council may be formed by any committee or a Managing Director. Councils will share information, discuss topics, and make recommendations to its initiating committee or Managing Director. Councils report up to their initiating committee or Managing Director.

[13] In 2013, DTCC launched its Recovery & Resolution Planning Program for DTC, NSCC, and FICC as part of its continued commitment to enhancing risk management. The Office of Recovery & Resolution Planning was established to manage the program and the development of the recovery and wind-down plans for the Clearing Agencies{XE ''SIFMU RWPs'' }.

[14] The criteria that is used to identify a FICC service or function as critical includes consideration as to whether (1) there is a lack of alternative providers or products; (2) failure of the service could impact FICC's ability to perform its central counterparty services through either Division; (3) failure of the service could impact FICC's ability to perform its multilateral netting services through either Division and, as such, could impact the volume of transactions; (4) failure of the service could impact FICC's ability to perform its book-entry delivery and settlement services through either Division and, as such, could impact transaction costs; (5) failure of the service could impact FICC's ability to perform its cash payment processing services through either Division and, as such, could impact the flow of liquidity in the U.S. financial markets; and (6) the service is interconnected with other participants and processes within the U.S. financial system (for example, with other FMIs, settlement banks, and broker-dealers).

[15] *Supra* note 6.

[16] *See* GSD Rule 3B (Centrally Cleared Institutional Triparty Service), *supra* note 5.

[17] *See* GSD Rule 3A (Sponsoring Members and Sponsored Members), *supra* note 5.

describes DTCC's business profile and includes a summary of the services of FICC offered by each of the Divisions.

In Section 2.3 (MBSD), pursuant to the proposed rule change, FICC would clarify and enhance the readability of the paragraph under the heading ''Trade Comparison/RTTM®.'' [18] First, at the beginning of the second sentence, the proposed rule change would add the term ''SBOD trades'' [19] to the list of trades that are guaranteed and novated at the time of comparison.[20] Second, FICC would delete the last sentence of this paragraph,[21] and replace it with the following two new sentences that more fully describe how and when settlement obligations are established between an MBSD Clearing Member and FICC, ''Once trade-for-trade destined transactions and stipulated trades are matched and allocated through MBSD, settlement obligations are established between the Member and FICC, however, these trades do not enter the ''TBA Netting'' process. Once specified pool trades are matched through MBSD, settlement obligations are established between the Member and FICC.'' This new language would be re-ordered to be the second and third sentences in this paragraph in order to enhance flow and readability. Additionally, the parenthetical in the first sentence ''(*i.e.,* a report)'' that is currently after the words ''transaction output'' would be deleted as redundant and not necessary to be included.

2. Member Default Losses Through the Crisis Continuum

Section 5 (Member Default Losses through the Crisis Continuum) of the Plan is comprised of multiple subsections that identify the risk management surveillance, tools, and governance that FICC may employ across an increasing stress environment, referred to as the ''Crisis Continuum.'' [22] This section currently identifies, among other things, the tools that can be employed by each Division to mitigate losses, and mitigate or minimize liquidity needs, as the market environment becomes increasingly stressed. As more fully described below, the proposed rule change would clarify certain language.

Section 5.2.1 (Stable Market Phase) describes FICC's risk management activities with respect to each Division in the normal course of business. These activities include (i) the routine monitoring of margin adequacy through daily evaluation of backtesting and stress testing results that review the adequacy of FICC's margin calculations, and escalation of those results to internal and Board committees and (ii) routine monitoring of liquidity adequacy through review of daily liquidity studies that measure sufficiency of available liquidity resources to meet cash settlement obligations of the Member that would generate the largest aggregate payment obligation. Further, under the heading ''Market Risk Monitoring and Stable Market Indicators,'' this section states that the amount of Clearing Fund required from each Member is determined principally by Value-at-Risk (''VaR'') calculations,[23] and that in order to ensure the VaR model accurately reflects market conditions and provides adequate protection against market risk, FICC evaluates several factors on an ongoing basis.

The proposed rule change would remove the following factor as one of those evaluated because it is no longer part of FICC's model calculation, ''Implied volatility to assess whether a potential increase in market price volatility may not be fully incorporated in the historical price moves.'' [24] The elimination of the language regarding implied volatility provides a more accurate representation of the risk model calculation. Consistent with the above, FICC would also remove the paragraph in this section that states that implied market price volatility as measured by benchmarks such as the VIX index does not indicate material changes in market price volatility are expected.

Section 5.2.4 (Recovery Corridor and Recovery Phase) outlines the early warning indicators to be used by FICC to evaluate its options and potentially prepare to enter the ''Recovery Phase,'' which phase refers to the actions to be taken by FICC to restore its financial resources and avoid a wind-down of its business. Included in this section are descriptions of potential stress events that could lead to recovery, and several early warning indicators and metrics that FICC has established to evaluate its options and potentially prepare to enter the Recovery Phase. These indicators, which are referred to in the Recovery Plan as recovery corridor indicators (''Corridor Indicators''),[25] are calibrated against FICC's financial resources and are designed to give FICC the ability to replenish financial resources, typically through business as usual (''BAU'') tools applied prior to entering the Recovery Phase.

Section 5.2.4 also includes language that requires FICC management to review the Corridor Indicators and the related metrics at least annually and modify these metrics as necessary in light of observations from simulation of Member defaults and other analyses. In order to more closely align with the biennial cycle of DTCC's multi-member closeout simulation exercise, the proposed rule change would shift the timing of management's review of the Corridor Indicators and related metrics from annually to biennially. FICC believes this change is necessary for consistency with the cycle of the multi-member closeout simulation, in which the Corridor Indicators and metrics are assessed as part of the simulation exercise.

There is a table in Section 5.2.4 (Table 5–B: Loss Waterfall Tools) that delineates the tools that comprise FICC's loss allocation waterfall (with respect to each Division) as set forth under the Rules.[26] This table has four columns (''Order,'' ''Tool,'' ''Relevant Rules,'' and ''Responsible Body/Personnel'') and is organized by the

[18] *See* MBSD Rule 5 (Trade Comparison), *supra* note 5.

[19] Under the Plan, ''SBOD trades'' refers to settlement balance order destined trades.

[20] In this regard, pursuant to the proposed rule change, the sentence would state, ''SBOD_t trades, trade-for-trade transactions, specified pool trades and stipulated trades are guaranteed and novated at the time of comparison.''

[21] Currently, the last sentence of this paragraph states, ''Once trade-for-trade transactions, stipulated trades, and specified pool trades are matched by MBSD, settlement obligations are established between the Member and MBSD as these trades do not enter the TBA Netting process.'' Further, pursuant to MBSD Rule 1 (Definitions), the term ''TBA Netting'' means the service provided to MBSD Clearing Members, as applicable, and the operations carried out by FICC in the course of providing such service in accordance with MBSD Rule 6 (TBA Netting), *supra* note 5.

[22] As set forth in the Recovery Plan, the phases of the ''Crisis Continuum'' include (1) a stable market phase, (2) a stressed market phase, (3) a phase commencing with FICC's decision to cease to act for a Member or Affiliated Family, and (4) a recovery phase.

[23] As described in the Plan, for each Division, the amount of Clearing Fund required from each Member is determined principally by VaR calculations, which are based on the potential price-change volatility of unsettled positions according to FICC's risk-based margin model.

[24] The remaining factors set forth in the Plan that FICC evaluates to ensure that the VaR model accurately reflects market conditions and provides adequate protection against market risk are: (i) Backtesting and other model performance monitoring to assess the robustness of the Clearing Fund requirements, and (ii) stress testing based on real historical and hypothetical scenarios to assess the margin adequacy under extreme but plausible market conditions. The Clearing Fund formulas for each Division are described in GSD Rule 4 and MBSD Rule 4, *supra* note 5.

[25] The majority of the Corridor Indicators, as identified in the Recovery Plan, relate directly to conditions that may require FICC to adjust its strategy for hedging and liquidating a defaulting Member's portfolio, and any such changes would include an assessment of the status of the Corridor Indicators.

[26] GSD Rule 4 and MBSD Rule 4, *supra* note 5.

order in which the liquidity resources are to be applied by FICC. Within Table 5–B, Corporate Contribution is the first entry under the column labeled ''Tool.'' Currently, the narrative for this entry includes a description of Corporate Contribution and delineates that in the event of a cease to act, before applying the applicable Division's Clearing Fund deposits of Members (other than the Defaulting Member) to cover any resulting loss, FICC will apply the Corporate Contribution.[27]

The proposed rule change would revise the current text of the definition of Corporate Contribution in Table 5–B in order to more closely align with how this term is defined under each Division's Rule 4. Specifically, pursuant to the proposed rule change the definition of Corporate Contribution would be revised to state, ''The Corporate Contribution is an amount equal to 50% of the amount calculated by FICC in respect of its General Business Risk Capital Requirement for losses that occur over any rolling 12 month period.'' [28] Similarly, the sentence directly above the definition of Corporate Contribution would be revised to remove the words ''applying the applicable Division's Clearing Fund Deposits of'' and replace them with ''charging Members of the applicable Division on a pro rata basis.''

With respect to the second entry in Table 5–B, ''Loss Allocation,'' the descriptive text in the ''Responsible Body/Personnel'' column would be revised to more closely align with the same language contained in each Division's Rule 4. The revised text would state, ''Members will be obligated to fund loss allocation on the second Business Day after the Corporation issues any such notice and to continue to fully fund their Required Deposits to the extent of any shortfalls.'' Additionally, in the ''Tool'' column for Loss Allocation, the term ''non-defaulting Members'' would be replaced with ''non-Defaulting Members'' because Defaulting Member is a defined term in the Rules.

3. Non-Default Losses

Section 6 (Non-Default Losses) of the Plan outlines how FICC would address losses that result other than from a Member default. This section provides a roadmap to other documents that describe these events in greater detail and outlines FICC's approach to monitoring losses that could result from a non-default event. This section also includes a description of GSD Rule 50 and MBSD Rule 40 (Market Disruption and Force Majeure), referred to in the Plan as the ''Force Majeure Rules,'' [29] which pertain to how FICC addresses extraordinary events that occur outside the control of FICC and its Members. As more fully described below, the proposed rule change would clarify certain language.

Section 6.4 (Resources to Cover Non-Default Losses) provides that FICC maintains two categories of financial resources to cover losses and expenses arising from non-default risks or events: (i) Liquid Net Assets Funded by Equity (''LNA''), including, pursuant to each Division's Rule 4, the required Corporate Contribution,[30] and (ii) loss-allocation charges to Members in accordance with the provisions of each Division's Rule 4.[31] Following an overview of the four buckets of LNA which can be applied towards non-default losses,[32] there is a paragraph under the heading ''Loss Allocation to Members, backed by the Clearing Fund'' that provides that non-default losses could be allocated among Members as provided in each Division's Rule 4. There is sentence that describes the timeframe in which such losses charged to Members are required to be paid. Currently, this sentence states that losses are to be paid by Members ''within 2 business days of the date of receipt of a notice of a loss allocation charge. . . .'' However, this is not the same language used to describe this timing in each Division's Rule 4. In order to be consistent with the language formulation set out in each Division's Rule 4, the proposed rule change would revise this sentence to state, ''Losses charged to Members are required to be paid by Members on the second business day after the Corporation issues any such notice of a loss allocation charge and, if not timely paid by any Member, the Corporation may treat that Member as having failed to satisfy its obligation and apply the Clearing Fund deposit of that Member to satisfy its loss allocation obligation.'' [33]

Section 6.6 (Market Disruption and Force Majeure Rule) describes the Force Majeure Rules. The Force Majeure Rules were adopted at the same time as the Plan [34] and provide an additional resiliency tool designed to mitigate the risks caused by market disruption events and thereby minimize the risk of financial loss that may result from such events. The proposed rule change would remove the following phrase after the reference to the Force Majeure Rule in the first paragraph of this section, '', adopted in conjunction with this Plan,'' because it is not necessary as both the Plan and the Force Majeure Rule are no longer newly adopted. In addition, to remain consistent with the usage of ''Force Majeure'' and ''Market Disruption Event'' throughout this section, FICC would conform all references to the defined terms ''Force Majeure'' and ''Market Disruption Event,'' so that they appear as capitalized terms.

The proposed rule change would also make revisions to the second paragraph of Section 6. First, for purposes of clarity and readability, the following text would be removed from the beginning of the second sentence: ''Most FMIs have rules designed to deal with force majeure or market disruption events, and.'' Second, the reference to ''Superstorm Sandy'' would be removed from the last sentence of this paragraph along with the related footnote that references Superstorm Sandy as an example of circumstances in which FICC needed to fashion a work-around necessitated by a force majeure event. FICC believes inclusion of references to Superstorm Sandy are outdated and no longer necessary to be included in the Plan.

[27] *Id.*

[28] Pursuant to GSD Rule 4 and MBSD Rule 4, *supra* note 5, for any loss allocation pursuant to Section 7 of GSD Rule 4 and MBSD Rule 4, as applicable, whether arising out of or relating to a Defaulting Member Event or a Declared Non-Default Loss Event, FICC's corporate contribution to losses or liabilities that are incurred by FICC with respect to an Event Period (''Corporate Contribution'') shall be an amount that is equal to fifty (50) percent of the amount calculated by FICC in respect of its General Business Risk Capital Requirement as of the end of the calendar quarter immediately preceding the Event Period.

[29] *Supra* note 6.

[30] *See* Securities Exchange Act Release Nos. 84427 (October 15, 2018), 83 FR 53131 (October 19, 2018) (SR–FICC–2018–009); and 89363 (July 21, 2020), 85 FR 45276 (July 27, 2020) (SR–FICC–2020–008) (filings amending the Clearing Agency Policy on Capital Requirements (the ''Capital Policy'') and the Clearing Agency Capital Replenishment Plan (the ''Capital Plan'')). The initial Capital Policy and Capital Plan were approved by the Commission in 2017—*see* Securities Exchange Act Release No. 81105 (July 7, 2017), 82 FR 32399 (July 13, 2017) (SR–DTC–2017–003, SR–NSCC–2017–004, SR–FICC–2017–007).

[31] GSD Rule 4 and MBSD Rule 4, *supra* note 5.

[32] As set forth in the Plan, FICC maintains the following four buckets of LNA which can be applied towards a non-default loss: (i) General Business Risk Capital as determined in the Capital Policy, *supra,* note 30, (ii) the Corporate Contribution, (iii) a ''Buffer,'' as described in the Capital Policy, and (iv) excess LNA, which refers to any available LNA held at FICC above the required amounts for General Business Risk Capital, the Corporate Contribution, and Buffer.

[33] GSD Rule 4 and MBSD Rule 4, *supra* note 5.

[34] *Supra* note 6.

C. Remove Provisions Covering Certain ''Business-as-Usual'' Actions

Section 8.6 (Actions and Preparation) of the Plan sets forth the legal framework and strategy for the orderly wind-down of FICC if the use of the recovery tools described in the Recovery Plan do not successfully return FICC to financial viability. This section includes an overview of the actions and preparations to be taken by FICC and DTCC in connection with executing the wind-down portions of the Plan. Section 8.6.1 (Business-as-Usual Actions) describes those actions that FICC or DTCC may take to prepare for wind-down in the period before FICC experiences financial distress.

Under the current plan, the Business-as-Usual Actions are (i) educating the Board to keep them informed of the Plan and the actions the Board would need to take to implement it, (ii) engaging in discussions with key linked FMIs as to the key elements of FICC's wind-down strategy and the expected actions of the respective link parties should a wind-down be implemented, (iii) developing and maintaining an index of internal data that includes the critical, ancillary, and non-critical services that FICC provides to its membership, the support FICC receives from DTCC and from its other affiliates, key third-party vendors, key personnel, FICC assets and liabilities, and agreements and arrangements FICC has with liquidity providers and with other FMIs, (iv) developing administrative wind-down guidance that identifies key Board and management actions that would be taken during the Recovery Phase and ''Runway Period'' [35] prior to FICC's failure, and in connection with its Chapter 11 proceedings, and (v) preparing constituent documents for the Failover Entity [36] and evaluating capitalization options.

Pursuant to the proposed rule change, FICC would remove the Business-as-Usual Actions section (currently Section 8.6.1) in its entirety because each of the actions outlined have either been completed or would be addressed in FICC's internal procedures going forward. This includes certain documents necessary to effect the wind-down aspects of the Plan that were in the process of being finalized when the Plan was adopted and have since been completed. Since adoption of the Plan,[37] FICC has completed all necessary internal documentation, including DTCC's internal wind-down guidance, the constituent documentation for the Failover Entity, and the evaluation of FICC's capitalization options. Further, the other actions included in this section (*e.g.,* maintaining an index of non-critical services, educating the Board on the Plans) would be addressed, going forward, in DTCC's Recovery & Resolution Planning Procedures maintained by the R&R Team.[38] As a result of this proposed change, current Section 8.6.2 (Recovery and Runway Period Actions) would be renumbered as Section 8.6.1. Also, consistent with the proposed removal of Business-as-Usual Actions that have been completed, the proposed rule change would remove from the first sentence of proposed Section 8.6.1 (current Section 8.6.2), the words ''Among other things, the guidance would provide'' and replace them with ''The DTCC Clearing Agency Wind-down Guidance developed in connection with this Plan provides.''

D. Technical Revisions

The proposal would also make several technical changes and corrections to the Plan. FICC believes that these proposed changes would not substantively alter the meaning of the applicable sections and would improve the overall readability and clarity of the Plan. Specifically, FICC is proposing to make the following changes and corrections:

1. In Section 1.3 (Summary), in the list of topics covered under the Plan (a) in the sixth bullet point, delete ''participant'' and replace it with ''Member,'' and (b) in the seventh bullet point, add ''Recovery Corridor and'' prior to the words ''Recovery Phase'' to correctly state the full name of this section of the Plan.

2. In Section 1.4 (Conventions):

• In the fourth paragraph, delete the words ''conjunction with'' and replace them with ''support of,'' and delete the words ''also adopted'' and replace them with ''maintains.'' Accordingly, under the proposed rule change this paragraph would state, ''In support of this Plan, each Division of FICC maintains (i) a Market Disruption and Force Majeure Rule (the ''Force Majeure Rules'') and (ii) a Wind-down of the Corporation Rule (the ''Wind-down Rules''), each as described herein.''

• In the last sentence of this section, delete ''CCIT'' and replace it with the full name of this GSD service, the ''Centrally Cleared Institutional Triparty (''CCIT'') Service.''

3. In Section 2.1 (DTCC Business Profile), under the heading ''DTCC SIFMU Subsidiaries'':

• In the description of NSCC, add the word ''netting,'' after the word ''clearing''; and after the words ''exchange traded,'' delete ''fund (''ETF'')'' and replace it with ''products (''ETPs'').''

• In the description of GSD, add the word ''netting,'' after the word ''clearing''; and add the modifier ''fixed rate'' before the words ''federal agency notes, bonds and zero-coupon securities.''

• In the description of MBSD, delete the modifier ''To-Be-Announced (''TBA'')'' before the phrase ''pass-through MBS issued by Ginnie Mae, Freddie Mac and Fannie Mae.''

4. In Section 2.2 (GSD), in the last sentence of the first paragraph, add ''/CCIT'' after ''GCF Repo®.''

5. In Section 2.3 (MBSD), in the paragraph under the heading ''EPN Allocation,'' in the last sentence, delete the word ''their'' before the word ''MBSD.''

6. In Section 3.1 (Introduction), correct a typographical error in subsection (c) by replacing ''An'' with ''A'' at the beginning of the sentence.

7. In Section 3.2 (Criteria Used to Determine Criticality), in the second sentence that currently states, ''Each service was assessed for criticality to determine the potential systemic impact from a service disruption,'' add the word ''resulting'' after the word ''impact.''

8. In Table 3–A (Critical Services Criterial Determinants), delete criteria determinant number 4 ''Failure/Disruption of Book-Entry Delivery/Settlement Services'' in its entirety because it applies to the DTC Recovery & Wind-down Plan and was included in the FICC Plan in error. As a result of this deletion, the proposed rule change would also (a) move up the numbering of the criteria determinants that are currently numbers 5 and 6, so that they

[35] The Wind-down Plan identifies the time period leading up to a decision to wind-down FICC as the ''Runway Period.''

[36] As set forth in Section 8.4.1 (General Objectives and Approach) of the Plan, in the event that no viable or preferable third-party transferee timely commits to acquire the business and services of FICC, the transfer will be effectuated to a failover entity created for that purpose (referred to as the ''Failover Entity''), that would be owned by a trust held, to the extent of the value of the Failover Entity attributed to FICC's transferred business and services, for the benefit of FICC's bankruptcy estate.

[37] *Supra* note 6.

[38] The R&R Team is responsible for maintaining the DTCC ''Office of Recovery & Resolution Planning Procedures'' document. The purpose of these procedures is to communicate roles and responsibilities, and procedures for the documentation of the R&W Plans covering each of the Clearing Agencies, in compliance with applicable rules and regulations. These procedures also describe the biennial closeout simulation exercise whereby the Plans for each clearing agency are tested through the simulation of a multi-member default.

are numbers 4 and 5 respectively [39] and (b) remove the column in Table 3–A designated for criteria determinant number 6.

9. In Section 4.1 (DTCC and SIFMU Governance Structure), (a) in the last sentence of the second paragraph, correct a typographical error by replacing ''NSCC'' with ''FICC'' and (b) in the third paragraph, which lists each of the Board committees, delete ''Board'' before the words ''Risk Committee.'' Additionally, in the footnote in this section that provides the citation of a previous proposed rule change covering the Clearing Agency Risk Management Framework, add a reference to FICC's amended filing published July 9, 2020.

10. In Section 4.2, in the paragraph under the heading ''Member Default Losses,'' in the second sentence add ''credit/market and liquidity'' before the phrase ''loss scenarios throughout the Crisis Continuum (as hereinafter defined).''

11. In Section 5.1 (Introduction), in the fourth paragraph, capitalize the word ''board.'' Under the heading ''Market Risk Management,'' in the last sentence of the second paragraph, replace the words ''Cross-Guaranty Agreements'' with ''clearing agency cross-guaranty agreements'' because Cross-Guaranty Agreements is not a defined term in the Plan. For purposes of clarity and readability, the proposed rule change would also shift to Section 4.1 the footnote currently included in Section 5.1 regarding each Division's Rules covering a ''cease to act,'' insolvency of a Member and associated actions.[40] Additionally, in the footnote included in this section that provides the citation to a previous proposed rule change covering the Clearing Agency Liquidity Risk Management Framework, add a reference to FICC's amended filing published December 11, 2020.

12. In Section 5.2.3 (Member Default Phase):

- Under the heading ''Market Risk Monitoring,'' (a) in the second sentence of the second paragraph, remove the capitalization from the first instance of the word ''Monitoring'' and (b) in the footnotes included in this section, replace ''defaulting Member'' with ''Defaulting Member.''
- Under the heading ''Liquidity Risk Monitoring,'' (a) in the fourth bullet point, replace ''defaulting Member'' with ''Defaulting Member,'' (b) in the sixth bullet point, replace ''defaulting member'' with ''Defaulting Member,'' and (c) in the parenthetical at the end of the last bullet point, delete the words, ''in the Event of Member Defaults.''
- Additionally, for consistency and to correct the same typographical error, the proposed rule change would capitalize the words ''Defaulting Member'' throughout the Plan wherever this term is referenced.

13. In Section 5.2.4 (Recovery Corridor and Recovery Phase), (a) in the first sentence of the first paragraph, make bold the words ''Recovery Corridor'' and (b) in the second sentence of the first paragraph, after the words ''The ''Recovery Phase'' relates to the actions taken by FICC to,'' add the phrase ''restore its financial resources and.''

14. In Table 5–A (Corridor Indicators) the proposed rule change would make the following typographical corrections:

- In the entry for ''Hedge Effectiveness,'' in the third sentence of the column titled ''Measures,'' delete the words ''generally assessed'' and replace them with ''most relevant.''
- In the entry for ''Uncommitted Repo Agreements,'' in the column titled ''Measures,'' delete ''16,'' and replace it with ''a number of'' after the phrase ''FICC has entered into Master Repurchase agreements with.''
- In the entry for ''FICC ceases to act for additional Members,'' in the first sentence of the column titled ''Status,'' under the heading ''Improvement Indicator metric,'' add the words, ''cease to act determinations,'' after the words ''No expected additional.''
- In the entry for ''Loss Allocation,'' in the first sentence of the column titled ''Measures,'' add the word ''Defaulting'' before the word ''Member's.''

15. In Section 5.3 (Liquidity Shortfalls), in the last sentence of the first paragraph, add the words ''market risk'' before the word ''losses.''

16. In Table 5–C, which lists the tools that can be used to address liquidity shortfalls, in the entry for ''Execute dollar rolls or coupon swaps for mortgage backed positions in GSD and MBSD,'' in the column titled ''Relevant Rules/Documents,'' in the first sentence of the third paragraph, after the phrase ''These options may provide,'' delete the word ''options'' and replace it with the words ''a course of action.''

17. In Section 5.5 (Governance Within the Crisis Continuum), in the first sentence of the second paragraph, delete the word ''invoked'' and replace it with the word ''commenced.''

18. In Section 6.3 (Risk Mitigation), in the footnote that includes the citation to a previous proposed rule change covering the Clearing Agency Operational Risk Management Framework, add a reference to FICC's amended filing published December 16, 2020.

19. In Section 6.4 (Resources to Cover Non-Default Losses), under the heading ''Liquid Net Assets Funded by Equity,'' at the end of the first sentence, add a new footnote for the citation to previous proposed rule changes covering the Capital Plan and Capital Policy.

20. In Section 6.6 (Market Disruption and Force Majeure Rule):

- In the second bullet point of the third paragraph remove the quotation marks from the words ''Market Disruption Event'' and delete the parenthetical ''(as defined in the Force Majeure Rules)'' because Market Disruption Event was defined earlier in this section.
- In the second sentence of the fourth paragraph, for purposes of reflecting present tense, delete the word ''would'' before the word ''operate.''
- In the first sentence of the second paragraph:
  - For purposes of reflecting present tense and to improve readability, (a) remove the word ''currently'' after ''exigent circumstances'' and (b) remove the words ''are designed to'' and
  - in order to correct a typographical error, insert the word ''and'' in between ''its membership'' and ''to mitigate.''

21. In Table 7–A (Recovery Tool Characteristics), add a period to the end of each sentence.

22. In Section 7.1 (Comprehensiveness), remove the capitalization from the words ''Critical Services.''

23. In Section 7.2 (Effectiveness), under the heading ''Reliability,'' for the purpose of correcting typographical errors, (a) move the second footnote, currently at the end of the last sentence, to the end of the last sentence of the introductory paragraph of Section 7.2 and (b) in the text of the other footnote that currently reads, ''See, for example, DTCC Whitepaper, *CCP Resiliency and Resources,* pg. 2, section 2 (June 2015),'' remove '', section 2.''

24. In Section 7.5 (Minimize Negative Impact), in the second sentence, correct the spelling of the word ''protocols.''

25. In Section 8.2.1 (Potential Scenarios), in the second sentence of the third paragraph, replace ''enhancements to the loss allocation process are'' with ''the loss allocation process is.'' Accordingly, under the proposed rule

[39] Pursuant to the proposed rule change, criteria determinant numbers 4 and 5 would be (i) No. 4: Failure/Disruption of Cash Payment Processing Services (Impact on Credit and Liquidity), and (ii) No. 5: Interconnectedness with U.S. Financial System.

[40] *See* GSD Rule 21 (Restrictions on Access to Services) and MBSD Rule 14 (Restrictions on Access to Services), and GSD Rule 22 (Insolvency of a Member) and MBSD Rule 16 (Insolvency of a Member), *supra* note 5.

change this sentence would state, ''As noted above, the loss allocation process is designed to ensure that the full Division Clearing Fund can be applied to Division losses arising from successive Member defaults that occur during an ''Event Period'', and there can be successive rounds of loss allocations to address losses arising with respect to a given Event Period.''

26. In Section 8.4.1 (General Objectives and Approach), in the second paragraph, delete the words ''have been amended to'' after the words ''the Rules of each Division'' in order to more clearly reflect the fact that the Wind-down of the Corporation Rules [41] were adopted.

27. In Section 8.4.2 (Critical Services and FMI Link Arrangements):

• In the paragraph under the heading ''Clearing Banks(s),'' delete the parenthetical ''(assuming JPM has exited the business).''

• In the paragraph under the heading ''Cross-Margining Agreement,'' (a) in the third sentence, delete the word ''transfer'' and replace with ''assignment'' and (b) in the last sentence, delete the word ''we'' and replace it with ''FICC.''

28. In Section 8.4.4 (Rules Adopted in Connection with the Wind-down Plan), in the first sentence under the heading ''Certain Ex Ante Matters,'' add the word ''a'' before the second instance of the word ''Transferee.''

29. In proposed Section 8.6.1 (currently Section 8.6.2) (Recovery and Runway Period Actions), capitalize the word ''chapter'' in two places where ''chapter 11'' is not capitalized.

30. In Section 8.7 (Costs and Time to Effectuate Plan), (a) in the second sentence of the fifth paragraph, delete the word ''of'' between the words ''detailed'' and ''analysis'' and (b) at the end of the last sentence of this section, delete the phrase '', as provided in the Capital Requirements Policy.'' As a result, under the proposed rule change, this sentence would state, ''The estimated wind-down costs amount will be reviewed and approved by the Board annually.'' Also, in the footnote in this section that refers to Section 5 of the Plan, correct the title of that section to state, ''Member Default Losses through the Crisis Continuum.''

31. In Appendix 1 (Defined Terms), add each of the new defined terms based on the addition of such terms to the Plan, and delete the defined terms that were removed based on the deletion of these terms from the Plan.

[41] *Supra* note 6.

2. Statutory Basis

FICC believes that the proposal is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a registered clearing agency. In particular, FICC believes that the amendments to the R&W Plan are consistent with Section 17A(b)(3)(F) of the Act [42] and Rule 17Ad–22(e)(3)(ii) under the Act [43] for the reasons described below.

Section 17A(b)(3)(F) of the Act requires, in part, that the rules of FICC be designed to promote the prompt and accurate clearance and settlement of securities transactions.[44] The Recovery Plan serves to promote the prompt and accurate clearance and settlement of securities transactions by providing FICC with a roadmap for actions it may employ to mitigate losses, and monitor and, as needed, stabilize, FICC's financial condition, which would allow it to continue its critical clearance and settlement services in stress situations. The Recovery Plan is designed to identify the actions and tools FICC may use to address and minimize losses to both FICC and its membership and provide FICC's management and the Board with guidance in this regard by identifying the indicators and governance around the use and application of such tools to enable them to address stress situations in a manner most appropriate for the circumstances. Further, the Wind-down Plan establishes a framework for the transfer and orderly wind-down of FICC's business, and establishes clear mechanisms for the transfer of FICC's critical services and membership. By doing so, the Wind-down Plan is designed to facilitate the continuity of FICC's critical services and enable Members and Limited Members to maintain access to FICC's services through the transfer of its membership in the event FICC defaults or the Wind-down Plan is triggered by the Board.

As described above, the proposed rule change would update the R&W Plan to (i) reflect business and product developments, (ii) make certain clarifications, (iii) remove provisions covering certain ''business-as-usual'' actions, and (iv) make certain technical corrections. By helping to ensure that the R&W Plan reflects current business and product developments, and providing additional clarity regarding the framework for the transfer and orderly wind-down of FICC's business, FICC believes that the proposed rule change would help it continue to maintain the Plan in a manner that supports the continuity of FICC's critical services and enables its Members and Limited Members to maintain access to FICC's services through the transfer of its membership in the event FICC defaults or the Wind-down Plan is ever triggered by the Board. Further, by facilitating the continuity of its critical clearance and settlement services, FICC believes the Plan and the proposed rule change would continue to promote the prompt and accurate clearance and settlement of securities transactions. Therefore, FICC believes the proposed amendments to the R&W Plan are consistent with the requirements of Section 17A(b)(3)(F) of the Act.

Rule 17Ad–22(e)(3)(ii) under the Act requires FICC to establish, implement, maintain and enforce written policies and procedures reasonably designed to maintain a sound risk management framework for comprehensively managing legal, credit, liquidity, operational, general business, investment, custody, and other risks that arise in or are borne by the covered clearing agency, which includes plans for the recovery and orderly wind-down of the covered clearing agency necessitated by credit losses, liquidity shortfalls, losses from general business risk, or any other losses.[45] The R&W Plan is designed to comply with Rule 17Ad–22(e)(3)(ii) and is consistent with the Act because it provides plans for the recovery and orderly wind-down of FICC necessitated by credit losses, liquidity shortfalls, losses from general business risk, or any other losses.

Specifically, the Recovery Plan defines the risk management activities, stress conditions and indicators, and tools that FICC may use to address stress scenarios that could eventually prevent it from being able to provide its critical services as a going concern. Through the framework of the Crisis Continuum, the Recovery Plan addresses measures that FICC may take to address risks of credit losses and liquidity shortfalls, and other losses that could arise from a Member default. The Recovery Plan also addresses the management of general business risks and other non-default risks that could lead to losses. The Wind-down Plan would be triggered by a determination by the Board that recovery efforts have not been, or are unlikely to be, successful in returning FICC to viability as a going concern. Once triggered, the Wind-down Plan sets forth clear mechanisms for the transfer of FICC's membership and business, and is designed to facilitate

[42] 15 U.S.C. 78q–1(b)(3)(F).

[43] 17 CFR 240.17Ad–22(e)(3)(ii).

[44] 15 U.S.C. 78q–1(b)(3)(F).

[45] 17 CFR 240.17Ad–22(e)(3)(ii).

continued access to FICC's critical services and to minimize market impact of the transfer. By establishing the framework and strategy for the execution of the transfer and wind-down of FICC in order to facilitate continuous access to its critical services, the Wind-down Plan establishes a plan for the orderly wind-down of FICC.

As described above, the proposed rule change would update the R&W Plan to (i) reflect business and product developments, (ii) make certain clarifications, (iii) remove provisions covering certain ''business-as-usual'' actions, and (iv) make certain technical corrections. By ensuring that material provisions of the Plan are current, clear, and technically correct, FICC believes that the proposed amendments are designed to support the maintenance of the Plan for the recovery and orderly wind-down of the covered clearing agency necessitated by credit losses, liquidity shortfalls, losses from general business risk, or any other losses, and, as such, meets the requirements of Rule 17Ad–22(e)(3)(ii) under the Act.[46] Therefore, the proposed changes would help FICC to maintain the Plan in a way that continues to be consistent with the requirements of Rule 17Ad–22(e)(3)(ii).

(B) Clearing Agency's Statement on Burden on Competition

FICC does not believe that the proposed rule change would have any impact, or impose any burden, on competition. FICC does not anticipate that the proposal would affect its day-to-day operations under normal circumstances, or in the management of a typical Member default scenario or non-default event. The R&W Plan was developed and documented in order to satisfy applicable regulatory requirements, as discussed above. The proposal is intended to enhance and update the Plan to ensure it is clear and remains current in the event it is ever necessary to be implemented. The proposed revisions would not effect any changes to the overall structure or operation of the Plan or FICC's recovery and wind-down strategy as set forth under the current Plan. As such, FICC believes the proposal would not have any impact, or impose any burden, on competition.

(C) Clearing Agency's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

FICC has not received or solicited any written comments relating to this proposal. FICC will notify the Commission of any written comments received by FICC.

[46] *Id.*

III. Date of Effectiveness of the Proposed Rule Change, and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)[47] of the Act and paragraph (f)[48] of Rule 19b–4 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.

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–FICC–2021–002 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549.

All submissions should refer to File Number SR–FICC–2021–002. 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 FICC and on DTCC's website (*http://dtcc.com/legal/sec-rule-filings.aspx*). 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–FICC–2021–002 and should be submitted on or before April 23, 2021.

[47] 15 U.S.C 78s(b)(3)(A).

[48] 17 CFR 240.19b–4(f).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[49]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2021–06774 Filed 4–1–21; 8:45 am]

BILLING CODE 8011–01–P

[49] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–91428; File No. SR–NSCC–2021–004]

Self-Regulatory Organizations; National Securities Clearing Corporation; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend the Recovery & Wind-Down Plan

March 29, 2021.

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 March 23, 2021, National Securities Clearing Corporation (''NSCC'') 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 clearing agency. NSCC filed the proposed rule change pursuant to Section 19(b)(3)(A)[3] of the Act and Rule 19b–4(f)(4) 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).

[4] 17 CFR 240.19b–4(f)(4).

I. Clearing Agency's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change [5] consists of amendments to the R&W Plan to (i) reflect business and product developments, (ii) make certain changes to improve the clarity of the Plan, (iii) remove provisions covering certain ''business-as-usual'' actions, and (iv) make certain technical corrections, as described in greater detail below.

II. Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the clearing agency 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 clearing agency has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

(A) Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The proposed rule change would amend the R&W Plan to (i) reflect business and product developments, (ii) make certain changes to improve the clarity of the Plan, (iii) remove provisions covering certain ''business-as-usual'' actions, and (iv) make certain technical corrections. Each of the proposed revisions is further described below.

Background

The R&W Plan was adopted in August 2018 [6] and is maintained by NSCC for compliance with Rule 17Ad–22(e)(3)(ii) under the Act.[7] The R&W Plan sets forth the plan to be used by the Board and NSCC management in the event NSCC encounters scenarios that could potentially prevent it from being able to provide its critical services as a going concern. The R&W Plan is structured as a roadmap that defines the strategy and identifies the tools available to NSCC to either (i) recover, in the event it experiences losses that exceed its prefunded resources (such strategies and tools referred to herein as the ''Recovery Plan'') or (ii) wind-down its business in a manner designed to permit the continuation of NSCC's critical services in the event that such recovery efforts are not successful (such strategies and tools referred to herein as the ''Wind-down Plan''). The recovery tools available to NSCC are intended to address the risks of (a) uncovered losses or liquidity shortfalls resulting from the default of one or more of its Members, and (b) losses arising from non-default events, such as damage to NSCC's physical assets, a cyber-attack, or custody and investment losses, and the strategy for implementation of such tools. The R&W Plan also describes the strategy and framework for the orderly wind-down of NSCC and the transfer of its business in the event the implementation of the available recovery tools does not successfully return NSCC to financial viability.

The R&W Plan is managed and developed by NSCC's parent company, the Depository Trust & Clearing Corporation (''DTCC''),[8] and is managed by the Office of Recovery & Resolution Planning (referred to in the Plan as the ''R&R Team'') on behalf of NSCC, with review and oversight by the DTCC Management Committee and the Board.

Proposed Amendments to the R&W Plan

The Board, or such committees as may be delegated authority by the Board from time to time pursuant to its charter, is required to review and approve the R&W Plan biennially.[9] In connection with the first biennial review of the Plan, NSCC is proposing the revisions described in greater detail below. The proposed rule change is designed to update and enhance the clarity of the Plan to ensure it is current in the event it is ever necessary to be implemented. None of the proposed changes modify NSCC's general objectives and approach with respect to its recovery and wind-down strategy as set forth under the current Plan.

A. Proposed Changes To Reflect Business or Product Developments

1. Updates to DTCC Business Profile, Intercompany Arrangements, FMI Links and Governance

NSCC is proposing the following changes to the DTCC Business Profile, Intercompany Arrangements, FMI Links and Governance sections of the Plan based upon business updates that have occurred since the time the Plan was adopted.

Section 2.1 (DTCC Business Profile) of the Plan describes that DTCC is a user-owned and user-governed holding company for a group of direct and indirect subsidiaries and joint ventures. This section includes a brief summary of each of the three subsidiaries (DTC, FICC and NSCC) that have been designated as systemically important financial market utilities (''SIFMUs'') by the Financial Stability Oversight Council. The proposed rule change would revise the introductory paragraph of this section to remove reference to joint ventures because DTCC currently has no joint ventures.

Section 2.4 (Intercompany Arrangements) of the Plan currently describes how corporate support services are provided to NSCC from DTCC, and to DTCC's other subsidiaries through intercompany agreements under a shared services model. NSCC is proposing to update Table 2–A (SIFMU Legal Entity Structure and Intercompany Agreements), which delineates NSCC's affiliates, to reflect the name change of Omgeo Pte Ltd by removing ''Omgeo Pte Ltd'' and replacing it with the new name of this entity, ''DTCC Singapore Pte. Ltd.'' A related footnote would also be added to make clear that the services provided by DTCC Singapore Pte. Ltd. are performed through its branch office in Manila, DTCC Manila. Additionally, this section includes a separate table, Table 2–B, that lists each of the DTCC facilities utilized by the Clearing Agencies and indicates whether the facility is owned or leased by DTCC. NSCC proposes to update this table to add Boston, Massachusetts as an additional location of a DTCC facility and to indicate that this facility is leased by DTCC.

Currently, Section 2.5 (FMI Links) of the Plan describes some, but not all, of the key financial market infrastructures (''FMIs''), both domestic and foreign, that NSCC has identified as critical ''links.'' [10] In order to better align with

[5] Capitalized terms not defined herein are defined in the Rules and Procedures of NSCC (the ''Rules''), *available at https://dtcc.com/~/media/Files/Downloads/legal/rules/nscc_rules.pdf*, or in the Recovery & Wind-down Plan of NSCC (the ''R&W Plan'' or ''Plan'').

[6] *See* Securities Exchange Act Release Nos. 83974 (August 28, 2018), 83 FR 44988 (September 4, 2018), (SR–NSCC–2017–017); and 83955 (August 27, 2018), 83 FR 44340 (August 30, 2018) (SR–NSCC–2017–805).

[7] 17 CFR 240.17Ad–22(e)(3)(ii). NSCC is a ''covered clearing agency'' as defined in Rule 17Ad–22(a)(5) under the Act and must comply with paragraph (e) of Rule 17Ad–22.

[8] DTCC operates on a shared service model with respect to NSCC and its other affiliated clearing agencies, The Depository Trust Company{ XE ''NSCC'' } (''DTC'') and Fixed Income Clearing Corporation (''FICC''). Most corporate functions are established and managed on an enterprise-wide basis pursuant to intercompany agreements under which it is generally DTCC that provides relevant services to NSCC, DTC{ XE ''NSCC'' } and FICC (collectively, the ''Clearing Agencies'').

[9] *Supra* note 6.

[10] As defined in Rule 17Ad–22(a)(8) under the Act, a link ''means, for purposes of paragraph (e)(20) of [Rule 17Ad–22], a set of contractual and operational arrangements between two or more

Continued

the structure of DTCC's inventory of links maintained by DTCC's Systemic Risk Office (''SRO''), which includes all of NSCC's link relationships, the proposed rule change would delete the current ''FMI Links'' section of the R&W Plan and replace it with a revised version of Section 2.5 that would include an overview of NSCC's link arrangements, a related footnote to the definition of a ''link'' under Rule 17Ad–22(a)(8) under the Act, and a table (Table 2–C: Links) listing all of NSCC's FMI link arrangements. The table would list the link, the link category (*i.e.,* whether the link is a central counterparty, settlement interface, or matching utility), and a brief description. The proposed rule change would also add a table (Table 2–D: Schedule A Relationships) that would identify certain critical external service providers that, as determined by NSCC's management, do not meet the specified criteria of ''link'' but nevertheless are subject to the same review process as is conducted for links, referred to within NSCC as ''Schedule A Relationships,'' and a related footnote. This change would align with the structure of SRO's inventory of Schedule A Relationships.

Section 4.3 (Recovery and Wind-down Program Governance) of the Plan currently contains a paragraph that identifies DTCC's ''R&R Steering Group'' as the internal group responsible for ensuring that each of the Clearing Agencies observes recovery planning requirements, and that recovery planning is integrated into the Clearing Agencies' overall governance processes including the preparation, review, and filing of the Clearing Agencies' R&W Plans. Pursuant to the proposed rule change, NSCC would revise Section 4.3 to reflect an internal organizational name change. The proposal would change the name of the R&R Steering Group to the ''Recovery and Wind-down Planning Council'' to reflect its role as an advisory body.[11] This name change would not change the composition, role or responsibilities of this internal group, which includes selected members of DTCC's Management Committee and members of DTCC's financial and operational risk management, product management, legal, and treasury/finance teams that are responsible for providing strategic guidance and direction for the recovery and wind-down program[12] and the Plan. Additionally, for purposes of clarification, the proposal would add the words '', where necessary,'' to refer to when the council would engage with internal working groups.

2. Liquidity Shortfalls

Section 5.3 (Liquidity Shortfalls) of the Plan identifies tools that may be used to address foreseeable shortfalls of NSCC's liquidity resources following a Member default. The goal in managing NSCC's qualified liquidity resources is to maximize resource availability in an evolving stress situation, to maintain flexibility in the order and use of sources of liquidity, and to repay any third-party lenders of liquidity in a timely manner. This section includes a table (Table 5–C) that lists NSCC liquidity tools and resources.[13] The proposed rule change would update this section to include a reference to cash proceeds from outstanding term debt issuance in addition to the other examples of NSCC's qualifying liquid resources. A footnote would also be added providing the citation to NSCC's advance notice filing covering the term debt issuance.[14]

B. Proposal To Make Certain Clarifications to the R&W Plan

1. Critical Services and Indicative Non-Critical Services

Section 3 (Critical Services) of the Plan defines the criteria for classifying certain of NSCC's services as ''critical,''[15] and identifies such critical services and the rationale for their classification. The identification of NSCC's critical services is important for evaluating how the recovery tools and the wind-down strategy would facilitate and provide for the continuation of NSCC's critical services to the markets it serves. This section also includes a list of indicative non-critical services.

This section includes a table (Table 3–B: NSCC Critical Services) that lists each of the services, functions or activities that NSCC has identified as ''critical'' based on the applicability of the criteria. As more fully described below, the proposed rule change would clarify in Table 3–B the description of some of the critical services and update the table to include an additional critical service. While the clarifying changes do not change the classification of the relevant service (as being either ''critical'' or ''indicative non-critical''), nor impact the existing classification of other services, NSCC believes these revisions would enhance the clarity of the descriptions of them.

First, the proposed rule change would revise the entries for ''3. Obligation Warehouse'' and ''10. CNS/Prime Broker Interface'' to delete the check mark denoting the lack of alternative providers and products as one of the determinants for its classification as a critical service. Second, the proposed rule change would replace the name of the service identified in the current plan as exchange-traded fund ''5. ETF'' to exchange-traded products ''5. ETPs'' in order to more accurately align with the scope of what is covered by these services. Third, currently the critical service ''6. ACATS''[16] is described as ''A service under which Members can transfer their customers' assets from one brokerage account and/or bank to another, while processing through CNS.'' The proposed rule change would add at the end of this description the phrase '', DTC, Obligation Warehouse, OCC and others,'' in order to include a more comprehensive description of this service. Fourth, in the description of ''11. Balance Order Netting,'' the proposed rule change would delete the phrase ''balance order transactions'' and replace it with ''Balance Order Contracts'' because it is a defined term under the Rules.[17]

clearing agencies, financial market utilities, or trading markets that connect them directly or indirectly for the purposes of participating in settlement, cross margining, expanding their services to additional instruments or participants, or for any other purposes material to their business.'' 17 CFR 240.17Ad–22(a)(8).

[11] In accordance with DTCC's Policy on Governance of Internal Committees and Councils, a ''council'' is defined as an advisory body that has no decision-making authority. A council may be formed by any committee or a Managing Director. Councils will share information, discuss topics, and make recommendations to its initiating committee or Managing Director. Councils report up to their initiating committee or Managing Director.

[12] In 2013, DTCC launched its Recovery & Resolution Planning Program for DTC, NSCC, and FICC as part of its continued commitment to enhancing risk management. The Office of Recovery & Resolution Planning was established to manage the program and the development of the recovery and wind-down plans for the Clearing Agencies.

[13] Table 5–C lists the following NSCC liquidity tools: Utilize short-settling liquidating trades, Increase the speed of portfolio asset sales, Credit Facility, Unissued Commercial Paper, Non-Qualifying Liquid Resources, and Uncommitted stock loan and equity repos.

[14] *See* Securities Exchange Act Release No. 87912 (January 8, 2020), 85 FR 2187 (January 14, 2020) (SR–NSCC–2019–802).

[15] The criteria that is used to identify an NSCC service or function as critical includes consideration as to whether (1) there is a lack of alternative providers or products; (2) failure of the service could impact NSCC's ability to perform its central counterparty services; (3) failure of the service could impact NSCC's ability to perform its netting services, and, as such, the availability of market liquidity; and (4) the service is interconnected with other participants and processes within the U.S. financial system (for example, with other FMIs, settlement banks, broker-dealers, and exchanges).

[16] ''ACATS'' refers to NSCC's Automated Customer Accounts Transfer Service.

[17] Pursuant to Rule 5, *supra* note 5, ''Balance Order Contracts'' is defined as Compared Contracts for Balance Order Securities and other transactions in respect of Balance Order Securities submitted to NSCC under the Rules.

Also, the proposed rule change would update Table 3–B (NSCC Critical Services) to add ''Account Information Transmission'' (''AIT''). This new entry would include in the description of AIT [18] that it is being enhanced in support of the bulk transfer initiative, which is an industry effort designed to prepare carrying broker-dealers for an emergency mass transfer of large quantities of customer accounts and assets from a distressed broker to a financially secure broker.[19] In the column that delineates the determinant for its classification as a critical service, this new entry would have a check mark that denotes this is because of a lack of alternative providers and products.

2. Member Default Losses Through the Crisis Continuum

Section 5 (Member Default Losses through the Crisis Continuum) of the Plan is comprised of multiple subsections that identify the risk management surveillance, tools, and governance that NSCC may employ across an increasing stress environment, referred to as the ''Crisis Continuum.'' [20] This section currently identifies, among other things, the tools that can be employed by NSCC to mitigate losses, and mitigate or minimize liquidity needs, as the market environment becomes increasingly stressed. As more fully described below, the proposed rule change would clarify certain language.

Section 5.2.1 (Stable Market Phase) describes NSCC's risk management activities in the normal course of business. These activities include (i) the routine monitoring of margin adequacy through daily evaluation of backtesting and stress testing results that review the adequacy of NSCC's margin calculations, and escalation of those results to internal and Board committees and (ii) routine monitoring of liquidity adequacy through review of daily liquidity studies that measure sufficiency of available liquidity resources to meet cash settlement obligations of the Member that would generate the largest aggregate payment obligation. Further, under the heading ''Market Risk Monitoring and Stable Market Indicators,'' this section states that the amount of Clearing Fund required from each Member is determined principally by Value-at-Risk (''VaR'') calculations,[21] and that in order to ensure the VaR model accurately reflects market conditions and provides adequate protection against market risk, NSCC evaluates several factors on an ongoing basis.

The proposed rule change would remove the following factor as one of those evaluated, because it is no longer part of NSCC's model calculation, ''Implied volatility to assess whether a potential increase in market price volatility may not be fully incorporated in the historical price moves.'' [22] The elimination of the language regarding implied volatility provides a more accurate representation of the risk model calculation. Consistent with the above, NSCC would also remove the paragraph in this section that states that implied market price volatility as measured by benchmarks such as the VIX index does not indicate material changes in market price volatility are expected.

Section 5.2.4 (Recovery Corridor and Recovery Phase) outlines the early warning indicators to be used by NSCC to evaluate its options and potentially prepare to enter the ''Recovery Phase,'' which phase refers to the actions to be taken by NSCC to restore its financial resources and avoid a wind-down of its business. Included in this section are descriptions of potential stress events that could lead to recovery, and several early warning indicators and metrics that NSCC has established to evaluate its options and potentially prepare to enter the Recovery Phase. These indicators, which are referred to in the Recovery Plan as recovery corridor indicators (''Corridor Indicators''),[23] are calibrated against NSCC's financial resources and are designed to give NSCC the ability to replenish financial resources, typically through business as usual (''BAU'') tools applied prior to entering the Recovery Phase.

Included in this section is a table (Table 5–A: Corridor Indicators) that for each Corridor Indicator identifies the (i) measures of the indicator, (ii) evaluations of the status of the indicator, (iii) metrics for determining the status of the deterioration or improvement of the indicator, and (iv) ''Corridor Actions,'' which are steps that may be taken to improve the status of the indicator,[24] as well as management escalations required to authorize those steps. For the entry in the table for ''Hedge Effectiveness,'' the proposed rule change would revise the text for clarity by adding to the existing description of measures of this indicator that hedge effectiveness is most relevant prior to commencing the hedging and liquidation strategy but is updated as necessary with changes in market prices and/or position liquidations. Also, the text that identifies Financial Risk Management as the internal group responsible for measuring the metrics for determining the status of the deterioration or improvement of the ''Hedge Effectiveness'' indicator would be revised to add that this is done with input from NSCC's investment advisor.

Section 5.2.4 also includes language that requires NSCC management to review the Corridor Indicators and the related metrics at least annually and modify these metrics as necessary in light of observations from simulation of Member defaults and other analyses. In order to more closely align with the biennial cycle of DTCC's multi-member closeout simulation exercise, the proposed rule change would shift the timing of management's review of the Corridor Indicators and related metrics from annually to biennially. NSCC believes this change is necessary for consistency with the cycle of the multi-member closeout simulation, in which the Corridor Indicators and metrics are assessed as part of the simulation exercise.

There is an additional table in Section 5.2.4, (Table 5–B: Loss Waterfall Tools) that delineates the tools that comprise NSCC's loss allocation waterfall as set forth under the Rules.[25] This table has four columns (''Order,'' ''Tool,'' ''Relevant Rules/Documents,'' and

[18] As set forth in Table 3–B of the Plan, the ''AIT'' service is described as a secure data transport facility that allows NSCC Members to perform a single movement of many customer brokerage accounts.

[19] *See https://www.sifma.org/resources/general/bulk-transfer-playbook.*

[20] As set forth in the Recovery Plan, the phases of the ''Crisis Continuum'' include (1) a stable market phase, (2) a stressed market phase, (3) a phase commencing with NSCC's decision to cease to act for a Member or Affiliated Family, and (4) a recovery phase.

[21] As described in the Plan, Value-at-Risk (''VaR'') calculations are based on the potential price-change volatility of unsettled positions according to NSCC's risk-based margin model.

[22] The remaining factors set forth in the Plan that NSCC evaluates to ensure that the VaR model accurately reflects market conditions and provides adequate protection against market risk are: (i) Backtesting and other model performance monitoring to assess the robustness of the Clearing Fund requirements, and (ii) stress testing based on real historical and hypothetical scenarios to assess the margin adequacy under extreme but plausible market conditions. The Clearing Fund Formula is described in Procedure XV (Clearing Fund Formula and Other Matters), *supra* note 5.

[23] The majority of the Corridor Indicators, as identified in the Recovery Plan, relate directly to conditions that may require NSCC to adjust its strategy for hedging and liquidating a defaulting Member's portfolio, and any such changes would include an assessment of the status of the Corridor Indicators.

[24] In this regard, the Corridor Actions that would be identified in the Plan are indicative but not prescriptive; therefore, if NSCC needs to consider alternative actions due to the applicable facts and circumstances, the escalation of those alternative actions would follow the same escalation protocol identified in the Plan for the Corridor Indicator to which the action relates.

[25] Rule 4, *supra* note 5.

''Responsible Body/Personnel'') and is organized by the order in which the liquidity resources are to be applied by NSCC. Within Table 5–B, Corporate Contribution is the first entry under the column labeled ''Tool.'' Currently, the narrative for this entry includes a description of Corporate Contribution and delineates that in the event of a cease to act, before applying the Clearing Fund deposits of Members (other than the defaulting Member) to cover any resulting loss, NSCC will apply the Corporate Contribution.[26] For purposes of clarity, this language would be revised to remove the words ''applying the Clearing Fund Deposits of'' and replace them with ''charging the Members on a pro rata basis.''

Within this same entry in Table 5–B, the proposed rule change would also revise the current text of the definition of Corporate Contribution, in order to more closely align with how this term is defined under Rule 4. Specifically, pursuant to the proposed rule change the definition of Corporate Contribution would be revised to state that, ''The Corporate Contribution is an amount that is equal to 50% of the amount calculated by NSCC in respect of its General Business Risk Capital Requirement for losses that occur over any rolling 12 month period.'' [27]

Additionally, with respect to the second entry in Table 5–B, ''Loss Allocation,'' the descriptive text in the ''Responsible Body/Personnel'' column would be revised to more closely align with the same language contained in Rule 4. The revised text would state, ''Members will be obligated to pay the loss allocation on the second business day after the Corporation issues any such notice and to continue to fully fund their Clearing Fund required deposits to the extent of any shortfalls.''

3. Non-Default Losses

Section 6 (Non-Default Losses) of the Plan outlines how NSCC would address losses that result other than from a Member default. This section provides a roadmap to other documents that describe these events in greater detail and outlines NSCC's approach to monitoring losses that could result from a non-default event. This section also includes a description of Rule 60 (Market Disruption and Force Majeure), referred to in the Plan as the ''Force Majeure Rule,'' [28] which pertains to how NSCC addresses extraordinary events that occur outside the control of NSCC and its Members. As more fully described below, the proposed rule change would clarify certain language.

Section 6.4 (Resources to Cover Non-Default Losses) provides that NSCC maintains two categories of financial resources to cover losses and expenses arising from non-default risks or events: (i) Liquid Net Assets Funded by Equity (''LNA''), including, pursuant to Rule 4, the required Corporate Contribution,[29] and (ii) loss-allocation charges to Members in accordance with the provisions of Rule 4.[30] Following an overview of the four buckets of LNA which can be applied towards non-default losses,[31] there is a paragraph under the heading ''Loss Allocation to Members, backed by the Clearing Fund'' that provides that non-default losses could be allocated among Members as provided in Rule 4. There is sentence that describes the timeframe in which such losses charged to Members are required to be paid. Currently, this sentence states that losses are to be paid by Members ''within 2 business days of the date of receipt of a notice of a loss allocation charge . . . .'' However, this is not the same language used to describe this timing in Rule 4. In order to be consistent with the language formulation set out in Rule 4, the proposed rule change would revise this sentence to state, ''Losses charged to Members are required to be paid by Members on the second business day after the Corporation issues any such notice of a loss allocation charge and, if not timely paid by any Member, the Corporation may treat that Member as having failed to satisfy its obligation and apply the Clearing Fund deposit of that Member to satisfy its loss allocation obligation.'' [32]

Section 6.6 (Market Disruption and Force Majeure Rule) describes the Force Majeure Rule. The Force Majeure Rule was adopted at the same time as the Plan [33] and provides an additional resiliency tool designed to mitigate the risks caused by market disruption events and thereby minimize the risk of financial loss that may result from such events. The proposed rule change would remove the following phrase after the reference to the Force Majeure Rule in the first paragraph of this section, '', adopted in conjunction with this Plan,'' because it is not necessary as both the Plan and the Force Majeure Rule are no longer newly adopted. In addition, to remain consistent with the usage of ''Force Majeure'' and ''Market Disruption Event'' throughout this section, NSCC would conform all references to the defined terms ''Force Majeure'' and ''Market Disruption Event,'' so that they appear as capitalized terms.

The proposed rule change would also make revisions to the second paragraph of Section 6.6. First, for purposes of clarity and readability, the following text would be removed from the beginning of the second sentence: ''Most FMIs have rules designed to deal with force majeure or market disruption events, and.'' Second, the reference to ''Superstorm Sandy'' would be removed from the last sentence of this paragraph along with the related footnote that references Superstorm Sandy as an example of circumstances in which NSCC needed to fashion a work-around necessitated by a force majeure event. NSCC believes inclusion of references to Superstorm Sandy are outdated and no longer necessary to be included in the Plan.

C. Remove Provisions Covering Certain ''Business-as-Usual'' Actions

Section 8.6 (Actions and Preparation) of the Plan sets forth the legal framework and strategy for the orderly wind-down of NSCC if the use of the recovery tools described in the Recovery Plan do not successfully return NSCC to financial viability. This section includes an overview of the actions and preparations to be taken by NSCC and DTCC in connection with executing the wind-down portions of the Plan. Section 8.6.1 (Business-as-Usual Actions) describes those actions that NSCC or

[26] *Id.*

[27] Pursuant to Rule 4, *supra* note 5, for any loss allocation pursuant to Section 4 of Rule 4, whether arising out of or relating to a Defaulting Member Event or a Declared Non-Default Loss Event, NSCC's corporate contribution to losses or liabilities that are incurred by NSCC with respect to an Event Period (''Corporate Contribution'') shall be an amount that is equal to fifty (50) percent of the amount calculated by NSCC in respect of its General Business Risk Capital Requirement as of the end of the calendar quarter immediately preceding the Event Period.

[28] *Supra* note 6.

[29] *See* Securities Exchange Act Release Nos. 84428 (October 15, 2018), 83 FR 53128 (October 19, 2018) (SR–NSCC–2018–008); and 89360 (July 21, 2020), 85 FR 45280 (July 27, 2020) (SR–NSCC–2020–014) (filings amending the Clearing Agency Policy on Capital Requirements (the ''Capital Policy'') and the Clearing Agency Capital Replenishment Plan (the ''Capital Plan'')). The initial Capital Policy and Capital Plan were approved by the Commission in 2017—*see* Securities Exchange Act Release No. 81105 (July 7, 2017), 82 FR 32399 (July 13, 2017) (SR–DTC–2017–003, SR–NSCC–2017–004, SR–FICC–2017–007).

[30] Rule 4, *supra* note 5.

[31] As set forth in the Plan, NSCC maintains the following four buckets of LNA, which can be applied towards a non-default loss: (i) General Business Risk Capital as determined in the Capital Policy, *supra* note 29, (ii) the Corporate Contribution, (iii) a ''Buffer,'' as described in the Capital Policy, and (iv) excess LNA, which refers to any available LNA held at NSCC above the required amounts for General Business Risk Capital, the Corporate Contribution, and Buffer.

[32] Rule 4, *supra* note 5.

[33] *Supra* note 6.

DTCC may take to prepare for wind-down in the period before NSCC experiences financial distress.

Under the current plan, the Business-as-Usual Actions are (i) educating the Board to keep them informed of the Plan and the actions the Board would need to take to implement it, (ii) engaging in discussions with key linked FMIs as to the key elements of NSCC's wind-down strategy and the expected actions of the respective link parties should a wind-down be implemented, (iii) developing and maintaining an index of internal data that includes the critical, ancillary, and non-critical services that NSCC provides to its membership, the support NSCC receives from DTCC and from its other affiliates, key third-party vendors, key personnel, NSCC assets and liabilities, and agreements and arrangements NSCC has with liquidity providers and with other FMIs, (iv) developing administrative wind-down guidance that identifies key Board and management actions that would be taken during the Recovery Phase and ''Runway Period'' [34] prior to NSCC's failure, and in connection with its Chapter 11 proceedings, and (v) preparing constituent documents for the Failover Entity [35] and evaluating capitalization options.

Pursuant to the proposed rule change, NSCC would remove the Business-as-Usual Actions section (currently Section 8.6.1) in its entirety because each of the actions outlined have either been completed or would be addressed in NSCC's internal procedures going forward. This includes certain documents necessary to effect the wind-down aspects of the Plan that were in the process of being finalized when the Plan was adopted and have since been completed. Since adoption of the Plan,[36] NSCC has completed all necessary internal documentation, including DTCC's internal wind-down guidance, the constituent documentation for the Failover Entity, and the evaluation of NSCC's capitalization options. Further, the other actions included in this section (*e.g.,* maintaining an index of non-critical services, educating the Board on the Plans) would be addressed, going forward, in DTCC's Recovery & Resolution Planning Procedures maintained by the R&R Team.[37] As a result of this proposed change, current Section 8.6.2 (Recovery and Runway Period Actions) would be renumbered as Section 8.6.1. Also, consistent with the proposed removal of Business-as-Usual Actions that have been completed, the proposed rule change would remove from the first sentence of proposed Section 8.6.1 (current Section 8.6.2) the words ''Among other things, the guidance would provide'' and replace them with ''The DTCC Clearing Agency Wind-down Guidance developed in connection with this Plan provides.''

D. Technical Revisions

The proposal would also make several technical changes and corrections to the Plan. NSCC believes that these proposed changes would not substantively alter the meaning of the applicable sections and would improve the overall readability and clarity of the Plan. Specifically, NSCC is proposing to make the following changes and corrections:

1. In Section 1.3 (Summary), in the list of topics covered under the Plan, in the seventh bullet point, add ''Recovery Corridor and'' prior to the words ''Recovery Phase'' to correctly state the full name of this section of the Plan.

2. In Section 1.4 (Conventions), in the third paragraph, delete the words ''conjunction with'' and replace them with ''support of,'' and delete the words ''also adopted'' and replace them with ''maintains.'' Accordingly, under the proposed rule change this paragraph would state, ''In support of this Plan, NSCC maintains (i) a Market Disruption and Force Majeure Rule (the ''Force Majeure Rule''), (ii) a ''Corporation Default Rule'' and (iii) a Wind-down of the Corporation Rule (the ''Wind-down Rule''), each as described herein.''

3. In Section 2.1 (DTCC Business Profile), under the heading ''DTCC SIFMU Subsidiaries'':

- In the description of NSCC, add '', netting,'' after the word ''clearing''; and after the words ''exchange-traded,'' delete ''fund (''ETF'')'' and replace it with ''products (''ETPs'').''
- In the description of NSCC's affiliated clearing agency, FICC, with respect to the Government Securities Division (''GSD''), add the word ''netting,'' after ''clearing.''
- In the description of the Mortgage-Backed Securities Division (''MBSD'') of FICC, delete the modifier ''To-Be-Announced'' before the phrase ''pass-through mortgage-backed securities issued by Ginnie Mae, Freddie Mac and Fannie Mae.''
- In the sentence that describes FICC's publication of the GCF Repo® Index, add the parenthetical ''(''GCF Repos®'')'' after the words ''general collateral finance repurchase transactions.''

4. In Section 2.2 (NSCC Guaranteed Services Summary), in the first sentence of the third paragraph, replace ''CNS positions'' with ''CNS Fails Positions'' because CNS Fails Position is a defined term under the Rules. Also, in the first sentence of the fourth paragraph, add the word ''guaranteed'' prior to ''Balance Order System.''

5. In Section 2.3 (NSCC Non-Guaranteed Services Summary), under the heading, ''Wealth Management Services,'' in the second sentence, replace the word ''procession'' with ''processing'' to correct a typographical error.

6. In Section 3.2 (Criteria Used to Determine Criticality), in the second sentence that currently states, ''Each service was assessed for criticality to determine the potential systemic impact from a service disruption,'' add the word ''resulting'' after the word ''impact.''

7. In Section 4.1 (DTCC and SIFMU Governance Structure), in the third paragraph, which lists each of the Board committees, delete ''Board'' before the words ''Risk Committee.'' Additionally, in the footnote in this section that provides the citation of a previous proposed rule change covering the Clearing Agency Risk Management Framework, add a reference to NSCC's amended filing published July 9, 2020.

8. In Section 5.1 (Introduction), in the fourth paragraph, capitalize the word ''board.'' Under the heading ''Market Risk Management,'' in the last sentence of the first paragraph, remove the capitalization of the words ''Clearing Agency Cross-Guaranty Agreements'' because this is not a defined term in the Plan. For purposes of clarity and readability, the proposed rule change would also shift to Section 4.1 the footnote currently included in Section 5.1 regarding the Rules covering a ''cease to act,'' insolvency of a Member,

[34] The Wind-down Plan identifies the time period leading up to a decision to wind-down NSCC as the ''Runway Period.''

[35] As set forth in Section 8.4.1 (General Objectives and Approach) of the Plan, in the event that no viable or preferable third-party transferee timely commits to acquire the business and services of NSCC, the transfer will be effectuated to a failover entity created for that purpose (referred to as the ''Failover Entity''), that would be owned by a trust held, to the extent of the value of the Failover Entity attributed to NSCC's transferred business and services, for the benefit of NSCC's bankruptcy estate.

[36] *Supra* note 6.

[37] The R&R Team is responsible for maintaining the DTCC ''Office of Recovery & Resolution Planning Procedures'' document. The purpose of these procedures is to communicate roles and responsibilities, and procedures for the documentation of the R&W Plans covering each of the Clearing Agencies, in compliance with applicable rules and regulations. These procedures also describe the biennial closeout simulation exercise whereby the Plans for each clearing agency are tested through the simulation of a multi-member default.

and associated actions.[38] Additionally, in the footnote included in this section that provides the citation to a previous proposed rule change covering the Clearing Agency Liquidity Risk Management Framework, add a reference to NSCC's amended filing published December 11, 2020.

9. In Section 5.2.3 (Member Default Phase), under the heading ''Market Risk Monitoring'':

• In the second sentence of the second paragraph, remove the capitalization from the first instance of the word ''Monitoring.''

• In the first sentence of the fourth paragraph, (i) delete the word ''close-out'' and replace it with ''liquidation,'' and (ii) after the phrase ''of the Defaulting Member's portfolio,'' add the parenthetical ''(referred to as a ''closeout'').''

10. In Section 5.2.4 (Recovery Corridor and Recovery Phase):

• In the first sentence of the first paragraph, add quotation marks and make bold the words ''Recovery Corridor.''

• Under the heading ''Recovery Corridor,'' (a) in the second sentence of the second paragraph, in the current parenthetical that states ''(*i.e.,* as market stress increases, NSCC would expect the length of the Recovery Corridor to shorten),'' replace the word ''shorten,'' with ''be shorter,'' and (b) in the second sentence of the last paragraph, after the word ''closeout,'' add an ''s'' to the end of the word ''simulation.''

11. In Section 5.3 (Liquidity Shortfalls), in Table 5–C, which lists the tools that can be used to address liquidity shortfalls, in the entry for ''Credit Facility,'' in the column titled ''Relevant Rules/Documents,'' (a) delete ''Currently, Section 2.03A(h) of the Credit Facility,'' because reference to a specific section of the credit facility documentation is not necessary, (b) replace the words ''facility terms'' with ''terms of the Credit Facility,'' and (c) after the word ''lenders,'' delete the word ''to'' and replace it with ''that.''

12. In Section 6.3 (Risk Mitigation), in the footnote that includes the citation to a previous proposed rule change covering the Clearing Agency Operational Risk Management Framework, add a reference to NSCC's amended filing published December 16, 2020.

13. In Section 6.4 (Resources to Cover Non-Default Losses), in the footnote that includes the citation to a previous proposed rule change covering the Capital Policy and Capital Plan, add a reference to NSCC's amended filings published July 27, 2020 with respect to the Capital Policy, and October 19, 2018 with respect to the Capital Plan.

14. In Section 6.6 (Market Disruption and Force Majeure Rule):

• In the second bullet point of the third paragraph remove the quotation marks from the words ''Market Disruption Event'' and delete the parenthetical ''(as defined in the Force Majeure Rule)'' because Market Disruption Event was defined earlier in this section.

• In the second sentence of the fourth paragraph, for purposes of reflecting present tense, delete the word ''would'' before the word ''operate,'' and pluralize ''operate.''

• In the first sentence of the second paragraph:

○ For purposes of reflecting present tense and to improve readability, (a) remove the word ''currently'' prior to ''the Force Majeure Rule'' and (b) remove the words ''is designed to clarify,'' and replace them with ''clarifies,'' and

○ in order to correct a typographical error, insert the word ''and'' in between ''its Participants'' and ''to mitigate.''

15. In Section 7.1 (Comprehensiveness), remove the capitalization from the words ''Critical Services.''

16. In Section 7.2 (Effectiveness), under the heading ''Reliability,'' for the purpose of correcting typographical errors, (a) move the second footnote, currently at the end of the last sentence, to the end of the last sentence of the introductory paragraph of Section 7.2 and (b) in the text of the other footnote that currently reads, ''See, for example, DTCC Whitepaper, *CCP Resiliency and Resources,* pg. 2, section 2 (June 2015),'' remove '', section 2.''

17. In Section 8.2.1 (Potential Scenarios), in the second sentence of the third paragraph, replace ''enhancements to the loss allocation process are'' with ''the loss allocation process is.'' Accordingly, under the proposed rule change this sentence would state, ''As noted above, the loss allocation process is designed to ensure that the full Clearing Fund can be applied to losses arising from successive Member defaults that occur during an ''Event Period'', and there can be successive rounds of loss allocations to address losses arising with respect to a given Event Period.''

18. In Section 8.2.2 (Wind-down Indicators), in the fourth bullet point of the third paragraph, in the sentence that currently states, ''If a Defaulting Member also defaults in provision of other services to NSCC—to the extent that a Member were to default both in its membership obligations, and additionally in its capacity as either an investment counterparty holding material Clearing Fund cash or other corporate funds, or as a Settling Bank, this would reduce NSCC's prefunded resources and add additional financial strain on Members,'' add the words ''a lender under the Credit Facility,'' after the words ''as either.''

19. In Section 8.4.1 (General Objectives and Approach), in the second paragraph, delete the words ''have been amended to'' after the words ''the Rules'' in order to more clearly reflect the fact that the Wind-down of the Corporation Rule[39] was adopted.

20. In Section 8.4.4 (Rules Adopted in Connection with the Wind-down Plan), in the subsection, ''The Wind-down Trigger,'' in the parenthetical, ''(Trigger for Implementing Wind-down),'' pluralize the word ''Trigger.''

21. In Section 8.4.5 (Wind-down and Liquidation of NSCC Following Transfer), in the third sentence of the first paragraph, delete the words ''adoption of the,'' before the words ''Corporation Default Rule.''

22. In proposed Section 8.6.1 (currently section 8.6.2) (Recovery and Runway Period Actions), capitalize the word ''chapter'' in two places where ''chapter 11'' is not capitalized.

23. In Section 8.7 (Costs and Time to Effectuate Plan), (a) in the second sentence of the fifth paragraph, delete the word ''of'' between the words ''detailed'' and ''analysis'' and (b) at the end of the last sentence of this section, delete the phrase '', as provided in the Capital Requirements Policy.'' As a result, under the proposed rule change, this sentence would state, ''The estimated wind-down costs amount will be reviewed and approved by the Board annually.'' Also, in the footnote in this section that refers to Section 5 of the Plan, correct the title of that section to state, ''Member Default Losses through the Crisis Continuum.''

24. In Appendix 1 (Defined Terms), add each of the new defined terms based on the addition of such terms to the Plan, and delete the defined terms that were removed based on the deletion of these terms from the Plan.

2. Statutory Basis

NSCC believes that the proposal is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a registered clearing agency. In particular, NSCC believes that the amendments to the R&W Plan are consistent with Section

[38] *See* Rule 46 (Restrictions on Access to Services) and Rule 20 (Insolvency), *supra* note 5.

[39] *Supra* note 6.

17A(b)(3)(F) of the Act[40] and Rule 17Ad–22(e)(3)(ii) under the Act,[41] for the reasons described below.

Section 17A(b)(3)(F) of the Act requires, in part, that the rules of NSCC be designed to promote the prompt and accurate clearance and settlement of securities transactions.[42] The Recovery Plan serves to promote the prompt and accurate clearance and settlement of securities transactions by providing NSCC with a roadmap for actions it may employ to mitigate losses, and monitor and, as needed, stabilize NSCC's financial condition, which would allow it to continue its critical clearance and settlement services in stress situations. The Recovery Plan is designed to identify the actions and tools NSCC may use to address and minimize losses to both NSCC and its membership and provide NSCC's management and the Board with guidance in this regard by identifying the indicators and governance around the use and application of such tools to enable them to address stress situations in a manner most appropriate for the circumstances. Further, the Wind-down Plan establishes a framework for the transfer and orderly wind-down of NSCC's business. It establishes clear mechanisms for the transfer of NSCC's critical services and membership, and for the treatment of open, guaranteed CNS transactions in the event of NSCC's default. By doing so, the Wind-down Plan is designed to facilitate the continuity of NSCC's critical services and enable Members and Limited Members to maintain access to NSCC's services through the transfer of its membership in the event NSCC defaults or the Wind-down Plan is triggered by the Board.

As described above, the proposed rule change would update the R&W Plan to (i) reflect business and product developments, (ii) make certain clarifications, (iii) remove provisions covering certain ''business-as-usual'' actions, and (iv) make certain technical corrections. By helping to ensure that the R&W Plan reflects current business and product developments, and providing additional clarity regarding the framework for the transfer and orderly wind-down of NSCC's business, NSCC believes that the proposed rule change would help it continue to maintain the Plan in a manner that supports the continuity of NSCC's critical services and enables its Members and Limited Members to maintain access to NSCC's services through the transfer of its membership in the event NSCC defaults or the Wind-down Plan is ever triggered by the Board. Further, by facilitating the continuity of its critical clearance and settlement services, NSCC believes the Plan and the proposed rule change would continue to promote the prompt and accurate clearance and settlement of securities transactions. Therefore, NSCC believes the proposed amendments to the R&W Plan are consistent with the requirements of Section 17A(b)(3)(F) of the Act.

Rule 17Ad–22(e)(3)(ii) under the Act requires NSCC to establish, implement, maintain and enforce written policies and procedures reasonably designed to maintain a sound risk management framework for comprehensively managing legal, credit, liquidity, operational, general business, investment, custody, and other risks that arise in or are borne by the covered clearing agency, which includes plans for the recovery and orderly wind-down of the covered clearing agency necessitated by credit losses, liquidity shortfalls, losses from general business risk, or any other losses.[43] The R&W Plan is designed to comply with Rule 17Ad–22(e)(3)(ii) and is consistent with the Act because it provides plans for the recovery and orderly wind-down of NSCC necessitated by credit losses, liquidity shortfalls, losses from general business risk, or any other losses.

Specifically, the Recovery Plan defines the risk management activities, stress conditions and indicators, and tools that NSCC may use to address stress scenarios that could eventually prevent it from being able to provide its critical services as a going concern. Through the framework of the Crisis Continuum, the Recovery Plan addresses measures that NSCC may take to address risks of credit losses and liquidity shortfalls, and other losses that could arise from a Member default. The Recovery Plan also addresses the management of general business risks and other non-default risks that could lead to losses. The Wind-down Plan would be triggered by a determination by the Board that recovery efforts have not been, or are unlikely to be, successful in returning NSCC to viability as a going concern. Once triggered, the Wind-down Plan sets forth clear mechanisms for the transfer of NSCC's membership and business, and is designed to facilitate continued access to NSCC's critical services and to minimize market impact of the transfer. By establishing the framework and strategy for the execution of the transfer and wind-down of NSCC in order to facilitate continuous access to its critical services, the Wind-down Plan establishes a plan for the orderly wind-down of NSCC.

As described above, the proposed rule change would update the R&W Plan to (i) reflect business and product developments, (ii) make certain clarifications, (iii) remove provisions covering certain ''business-as-usual'' actions, and (iv) make certain technical corrections. By ensuring that material provisions of the Plan are current, clear, and technically correct, NSCC believes that the proposed amendments are designed to support the maintenance of the Plan for the recovery and orderly wind-down of the covered clearing agency necessitated by credit losses, liquidity shortfalls, losses from general business risk, or any other losses, and, as such, meets the requirements of Rule 17Ad–22(e)(3)(ii) under the Act.[44] Therefore, the proposed changes would help NSCC to maintain the Plan in a way that continues to be consistent with the requirements of Rule 17Ad–22(e)(3)(ii).

(B) Clearing Agency's Statement on Burden on Competition

NSCC does not believe that the proposed rule change would have any impact, or impose any burden, on competition. NSCC does not anticipate that the proposal would affect its day-to-day operations under normal circumstances, or in the management of a typical Member default scenario or non-default event. The R&W Plan was developed and documented in order to satisfy applicable regulatory requirements, as discussed above. The proposal is intended to enhance and update the Plan to ensure it is clear and remains current in the event it is ever necessary to be implemented. The proposed revisions would not effect any changes to the overall structure or operation of the Plan or NSCC's recovery and wind-down strategy as set forth under the current Plan. As such, NSCC believes the proposal would not have any impact, or impose any burden, on competition.

(C) Clearing Agency's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

NSCC has not received or solicited any written comments relating to this proposal. NSCC will notify the Commission of any written comments received by NSCC.

[40] 15 U.S.C. 78q–1(b)(3)(F).

[41] 17 CFR 240.17Ad–22(e)(3)(ii).

[42] 15 U.S.C. 78q–1(b)(3)(F).

[43] 17 CFR 240.17Ad–22(e)(3)(ii).

[44] *Id.*

III. Date of Effectiveness of the Proposed Rule Change, and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) [45] of the Act and paragraph (f) [46] of Rule 19b–4 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.

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–NSCC–2021–004 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549.

All submissions should refer to File Number SR–NSCC–2021–004. 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 NSCC and on DTCC's website (*http://dtcc.com/legal/sec-rule-filings.aspx*). 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–NSCC–2021–004 and should be submitted on or before April 23, 2021.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[47]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2021–06770 Filed 4–1–21; 8:45 am]

BILLING CODE 8011–01–P

[45] 15 U.S.C 78s(b)(3)(A).

[46] 17 CFR 240.19b–4(f).

[47] 17 CFR 200.30–3(a)(12).

SMALL BUSINESS ADMINISTRATION

[License No. 05/05–0303]

CapX Fund IV, 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. 05/05–0303 issued to CapX Fund IV, L.P., said license is hereby declared null and void.

Small Business Administration.

Thomas G. Morris,

Acting Associate Administrator, Director, Office of SBIC Liquidation, Office of Investment and Innovation.

[FR Doc. 2021–06811 Filed 4–1–21; 8:45 am]

BILLING CODE P

SMALL BUSINESS ADMINISTRATION

[License No. 05/05–0292]

Vogen Funding, 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. 05/05–0292 issued to Vogen Funding, LP, said license is hereby declared null and void.

Small Business Administration.

Thomas G. Morris,

Acting Associate Administrator, Director, Office of SBIC Liquidation, Office of Investment and Innovation.

[FR Doc. 2021–06812 Filed 4–1–21; 8:45 am]

BILLING CODE 8026–03–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #16253 and #16254; PUERTO RICO Disaster Number PR–00034]

Presidential Declaration Amendment of a Major Disaster for the Commonwealth of Puerto Rico

AGENCY: U.S. Small Business Administration.

ACTION: Amendment 11.

SUMMARY: This is an amendment of the Presidential declaration of a major disaster for the Commonwealth of Puerto Rico (FEMA–4473–DR), dated 01/16/2020.

Incident: Earthquakes.

Incident Period: 12/28/2019 through 07/03/2020.

DATES: Issued on 03/25/2021.

Physical Loan Application Deadline Date: Filing Period for the Municipality of Rincon ends 05/24/2021.

Economic Injury (EIDL) Loan Application Deadline Date: Filing Period for the Municipality of Rincon ends 12/27/2021.

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: The notice of the President's major disaster declaration for the Commonwealth of Puerto Rico, dated 01/16/2020, is hereby amended to include the Municipality of Rincon. Please contact the SBA disaster assistance customer service center by email at *disastercustomerservice@sba.gov* or by phone at 1–800–659- 2955 to request an application. Applications for physical damages may be filed until 05/24/2021 and applications for

economic injury may be file until 12/27/2021.

All other information in the original declaration remains unchanged.

(Catalog of Federal Domestic Assistance Number 59008)

James Rivera,

Associate Administrator for Disaster Assistance.

[FR Doc. 2021–06813 Filed 4–1–21; 8:45 am]

BILLING CODE 8026–03–P

SMALL BUSINESS ADMINISTRATION

[License No. 02/02–0658]

OFS SBIC I, L.P.; Notice Seeking Exemption Under Section 312 of the Small Business Investment Act, Conflicts of Interest

Notice is hereby given that OFS SBIC I, L.P., 540 Madison Avenue, Floor 8, New York, NY 10022, a Federal Licensee under the Small Business Investment Act of 1958, as amended (''the Act''), in connection with the financing of a small concern, 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). OFS SBIC I, L.P., is seeking a written exemption from SBA for a proposed financing to Chemical Resources Holdings, Inc., 103 Carnegie Center, Suite 100, Princeton, NJ 08540.

The financing is brought within the purview of § 107.730(a) of the Regulations because OFS SBIC I, L.P. will participate in a follow-on transaction where its Associates own more than 10% equity ownership in the company, Chemical Resources Holdings, Inc., therefore this transaction is considered *Financing which constitute conflicts of interest* requiring SBA's prior written exemption. OFS SBIC I, L.P. has not made its investment in Chemical Resources Holdings, Inc and is seeking pre-financing SBA approval.

Notice is hereby given that any interested person may submit written comments on this transaction within fifteen days of the date of this publication to the Associate Administrator, Office of Investment and Innovation, U.S. Small Business Administration, 409 Third Street SW, Washington, DC 20416.

Small Business Administration.

Thomas G. Morris,

Acting Associate Administrator, Director, Office of Liquidation, Office of Investment and Innovation.

[FR Doc. 2021–06810 Filed 4–1–21; 8:45 am]

BILLING CODE P

DEPARTMENT OF STATE

[Public Notice: 11380]

Notice of Determinations; Culturally Significant Object Being Imported for Exhibition—Determinations: Exhibition of ''The Large Figure Paintings, No. 5, The Key to All Work to Date'' Painting by Hilma af Klint

SUMMARY: Notice is hereby given of the following determinations: I hereby determine that one object being imported from abroad pursuant to an agreement with the foreign owner or custodian for temporary exhibition within the Collection Galleries: 1880s–1940s of the Museum of Modern Art, New York, New York, and at possible additional exhibitions or venues yet to be determined, is of cultural significance, and, further, that its temporary exhibition or display within the United States as aforementioned is in the national interest. I have ordered that Public Notice of these determinations be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Chi D. Tran, Program Administrator, Office of the Legal Adviser, U.S. Department of State (telephone: 202–632–6471; email: *section2459@state.gov*). The mailing address is U.S. Department of State, L/PD, SA–5, Suite 5H03, Washington, DC 20522–0505.

SUPPLEMENTARY INFORMATION: The foregoing determinations were made pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985; 22 U.S.C. 2459), E.O. 12047 of March 27, 1978, the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681, *et seq.;* 22 U.S.C. 6501 note, *et seq.*), Delegation of Authority No. 234 of October 1, 1999, and Delegation of Authority No. 236–3 of August 28, 2000.

Matthew R. Lussenhop,

Acting Assistant Secretary, Bureau of Educational and Cultural Affairs, Department of State.

[FR Doc. 2021–06859 Filed 4–1–21; 8:45 am]

BILLING CODE 4710–05–P

DEPARTMENT OF STATE

[Public Notice: 11389]

Notice of Determinations; Culturally Significant Objects Being Imported for Exhibition—Determinations: ''Egypt: The Time of Pharaohs'' Exhibition

SUMMARY: Notice is hereby given of the following determinations: I hereby determine that certain objects being imported from abroad pursuant to agreements with their foreign owners or custodians for temporary display in the exhibition ''Egypt: The Time of Pharaohs'' at the Natural History Museum of Utah, Salt Lake City, Utah, at the Denver Museum of Nature and Science, Denver, Colorado, and at possible additional exhibitions or venues yet to be determined, are of cultural significance, and, further, that their temporary exhibition or display within the United States as aforementioned is in the national interest. I have ordered that Public Notice of these determinations be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Chi D. Tran, Program Administrator, Office of the Legal Adviser, U.S. Department of State (telephone: 202–632–6471; email: *section2459@state.gov*). The mailing address is U.S. Department of State, L/PD, SA–5, Suite 5H03, Washington, DC 20522–0505.

SUPPLEMENTARY INFORMATION: The foregoing determinations were made pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985; 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978, the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681, *et seq.;* 22 U.S.C. 6501 note, *et seq.*), Delegation of Authority No. 234 of October 1, 1999, and Delegation of Authority No. 236–3 of August 28, 2000.

Matthew R. Lussenhop,

Acting Assistant Secretary, Bureau of Educational and Cultural Affairs, Department of State.

[FR Doc. 2021–06863 Filed 4–1–21; 8:45 am]

BILLING CODE 4710–05–P

DEPARTMENT OF STATE

[Public Notice: 11390]

Notice of Determinations; Culturally Significant Objects Being Imported for Exhibition—Determinations: ''The Medici: Portraits & Politics, 1512–1570'' Exhibition

SUMMARY: Notice is hereby given of the following determinations: I hereby determine that certain objects being

imported from abroad pursuant to agreements with their foreign owners or custodians for temporary display in the exhibition ''The Medici: Portraits & Politics, 1512—1570'' at The Metropolitan Museum of Art, New York, New York, and at possible additional exhibitions or venues yet to be determined, are of cultural significance, and, further, that their temporary exhibition or display within the United States as aforementioned is in the national interest. I have ordered that Public Notice of these determinations be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Chi D. Tran, Program Administrator, Office of the Legal Adviser, U.S. Department of State (telephone: 202–632–6471; email: *section2459@state.gov*). The mailing address is U.S. Department of State, L/PD, SA–5, Suite 5H03, Washington, DC 20522–0505.

SUPPLEMENTARY INFORMATION: The foregoing determinations were made pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985; 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978, the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681, *et seq.;* 22 U.S.C. 6501 note, *et seq.*), Delegation of Authority No. 234 of October 1, 1999, and Delegation of Authority No. 236–3 of August 28, 2000.

Matthew R. Lussenhop,

Acting Assistant Secretary, Bureau of Educational and Cultural Affairs, Department of State.

[FR Doc. 2021–06865 Filed 4–1–21; 8:45 am]

BILLING CODE 4710–05–P

SURFACE TRANSPORTATION BOARD

[Docket No. FD 36492]

York Railway Company, Maryland and Pennsylvania Railroad, LLC, and Yorkrail, LLC—Corporate Family Transaction Exemption

York Railway Company (YRC), Maryland and Pennsylvania Railroad, LLC (M&P), and Yorkrail, LLC (Yorkrail) (collectively, Applicants), have jointly filed a verified notice of exemption for a corporate family transaction under 49 CFR 1180.2(d)(3).

According to the verified notice, YRC, a Delaware corporation and Class III carrier, wholly owns both M&P and Yorkrail, each of which is a Delaware limited liability company and non-operating Class III carrier that owns common carrier rail lines in Pennsylvania operated by YRC.[1] Under the proposed transaction, M&P and Yorkrail will be merged with and into YRC with YRC being the surviving corporate entity, owning and operating the covered rail lines.[2] Applicants state that the purpose of the transaction is to restructure their corporate family to simplify and streamline the ownership and operation of the M&P and Yorkrail rail assets. According to Applicants, the only change as a result of the proposed transaction is that YRC will have direct, instead of indirect, ownership of the rail assets currently belonging to M&P and Yorkrail.

The verified notice states that the proposed transaction does not impose or involve an interchange commitment by or affecting Applicants.[3]

Unless stayed, the exemption will be effective on April 18, 2021 (30 days after the verified notice was filed). Applicants state that they intend to consummate the proposed transaction on or after April 30, 2021.

The verified notice states that the proposed transaction is within Applicants' corporate family and will not result in adverse changes in service levels, significant operational changes, or a change in the competitive balance with carriers outside the corporate family. Therefore, the transaction is exempt from the prior approval requirements of 49 U.S.C. 11323. *See* 49 CFR 1180.2(d)(3).

Under 49 U.S.C. 10502(g), the Board may not use its exemption authority to relieve a rail carrier of its statutory obligation to protect the interests of its employees. However, 49 U.S.C. 11326(c) does not provide for labor protection for transactions under 49 U.S.C. 11324 and 11325 that involve only Class III rail carriers. Accordingly, the Board may not impose labor protective conditions here because all of the carriers involved are Class III rail carriers.

If the verified notice contains false or misleading information, the exemption is void ab initio. Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the effectiveness of the exemption. Petitions for stay must be filed no later than April 9, 2021 (at least seven days before the exemption becomes effective).

All pleadings, referring to Docket No. FD 36492, should be filed with the Surface Transportation Board via e-filing on the Board's website. In addition, one copy of each pleading must be served on Applicants' representative, Eric M. Hocky, Clark Hill PLC, Two Commerce Square, 2001 Market St., Suite 2620, Philadelphia, PA 19103.

According to Applicants, this action is categorically excluded from environmental review under 49 CFR 1105.6(c) and historic preservation reporting under 49 CFR 1105.8(b).

Board decisions and notices are available at *www.stb.gov*.

Decided: March 29, 2021.

By the Board, Scott M. Zimmerman, Acting Director, Office of Proceedings.

Eden Besera,

Clearance Clerk.

[FR Doc. 2021–06829 Filed 4–1–21; 8:45 am]

BILLING CODE 4915–01–P

[1] The verified notice states that Genesee & Wyoming, Inc., gained control of all three companies in 2002. *See Genesee & Wyo. Inc.—Control Exemption— ETR Acquis. Corp.,* FD 34148 (STB served Feb. 28, 2002).

[2] As a result of this transaction, YRC also will acquire Yorkrail's rights to reactivate service established in *Yorkrail, LLC—Abandonment Exemption—in York County, Penn.,* AB 1308X (STB served Nov. 20, 2020).

[3] Applicants filed an unexecuted draft copy of the agreement with their verified notice.

SURFACE TRANSPORTATION BOARD

[Docket No. FD 36499]

Northern Indiana Railroad Company, LLC—Acquisition Exemption—Town of North Judson, Ind.

Northern Indiana Railroad Company, LLC (NIRCo), a noncarrier, has filed a verified notice of exemption under 49 CFR 1150.31 to acquire from the Town of North Judson, Ind., approximately 32.97 miles of rail line extending between milepost CF 0.63, at LaCrosse, and milepost 15.23 at Wellsboro, and between milepost CI 212.55, at or near North Judson, and milepost 230.92, at Malden, in LaPorte, Porter, and Starke Counties, Ind. (collectively, the Line). The verified notice states that, following the sale, the Chesapeake and Indiana Railroad Company (CKIN), a Class III rail carrier, will continue its current operations over the Line.[1]

NIRCo certifies that its projected annual revenues as a result of this

[1] CKIN obtained authority to operate over the Line in *Chesapeake & Indiana Railroad—Operation Exemption—Town of North Judson, Ind.,* FD 34529 (STB served Aug. 20, 2004). In 2017, CKIN obtained amended operating authority for a 27.92-mile segment of the Line, from milepost CF 0.23 to milepost CF 15.23, and from milepost CI 218 to milepost CI 230.92, *see Chesapeake & Ind. R.R.—Amended Operation Exemption—Town of N. Judson, Ind.,* FD 36147 (STB served Oct. 20, 2017), and authority to discontinue service over an approximately 5.45-mile segment of the Line between milepost CI 212.55 and milepost CI 218.0, *see Chesapeake & Ind. R.R.—Discontinuance of Serv. Exemption—in Starke Cnty., Ind.,* AB 1259X (STB served Nov. 28, 2017).

transaction will not exceed those that would qualify it as a Class III rail carrier and will not exceed $5 million. NIRCo further certifies that the acquisition does not involve a provision or agreement that would limit future interchange with a third-party connecting carrier.

The transaction may be consummated on or after April 18, 2021, the effective date of the exemption (30 days after the verified notice was filed).

If the verified notice contains false or misleading information, the exemption is void ab initio. Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the effectiveness of the exemption. Petitions to stay must be filed no later than April 9, 2021 (at least seven days before the exemption becomes effective).

All pleadings, referring to Docket No. FD 36499, should be filed with the Surface Transportation Board via e-filing on the Board's website. In addition, a copy of each pleading must be served on NIRCo's representative: Charles H. Montange, Law Offices of Charles H. Montange, 426 NW 162nd St, Seattle, WA 98177.

Board decisions and notices are available at *www.stb.gov.*

Decided: March 30, 2021.

By the Board, Allison C. Davis, Director, Office of Proceedings.

Brendetta Jones,

Clearance Clerk.

[FR Doc. 2021–06842 Filed 4–1–21; 8:45 am]

BILLING CODE 4915–01–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Notice of Final Federal Agency Actions on Proposed Highway in California

AGENCY: Federal Highway Administration (FHWA), Department of Transportation (DOT).

ACTION: Notice of limitation on claims for judicial review of actions by the California Department of Transportation (Caltrans).

SUMMARY: The FHWA, on behalf of Caltrans, is issuing this notice to announce actions taken by Caltrans that relate to a proposed highway project, Binney Junction Underpass (UP) and Marysville UP replacement on State Route 70, in the City of Marysville, in Yuba County, in the State of California. Those actions grant licenses, permits, and approvals for the project.

DATES: By this notice, the FHWA, on behalf of Caltrans, is advising the public of final agency actions. A claim seeking judicial review of the Federal agency actions on the highway project will be barred unless the claim is filed on or before August 30, 2021. If the Federal law that authorizes judicial review of a claim provides a time period of less than 150 days for filing such claim, then that shorter time period still applies.

FOR FURTHER INFORMATION CONTACT: For Caltrans: Cara Lambirth, Branch Chief, Caltrans Office of Environmental Management, M–3, California Department of Transportation-District 3, 703 B Street, Marysville, CA 95901. Office Hours: 8:00 a.m.–5:00 p.m., Pacific Standard Time, telephone (530) 741–4134 or email *cara.lambirth@dot.ca.gov.* For FHWA, contact David Tedrick at (916) 498–5024 or email *david.tedrick@dot.gov.*

SUPPLEMENTARY INFORMATION: Effective July 1, 2007, the FHWA assigned, and Caltrans assumed, environmental responsibilities for this project pursuant to 23 U.S.C. 327. Notice is hereby given that the Caltrans has taken final agency actions subject to 23 U.S.C. 139(*l*)(1) by issuing licenses, permits, and approvals for the following highway project in the State of California: Caltrans proposes to rehabilitate State Route 70 (SR 70) in Marysville, California, for approximately 0.9 miles (14.8 PM to 15.7 PM), including the replacement of Binney Junction Underpass (UP) and the Marysville UP. The project will provide complete streets elements, rehabilitate existing pavement, reduce future traffic congestion, improve operations and safety, and comply with current Caltrans, Union Pacific Railroad (UPRR), local and federal standards.

The actions by the Federal agencies, and the laws under which such actions were taken, are described in the Final Environmental Assessment (FEA)/Finding of No Significant Impact (FONSI) for the project, approved on December 7, 2020, and in other documents in Caltrans' project records. The FEA, FONSI and other project records are available by contacting Caltrans at the addresses provided above, or can be viewed and downloaded from the project website at: *https://dot.ca.gov/caltrans-near-me/district-3/d3-programs/d3-environmental-planning/d3-environmental-docs.* This notice applies to all Federal agency decisions as of the issuance date of this notice and all laws under which such actions were taken, including but not limited to:

1. Council on Environmental Quality Regulations
2. National Environmental Policy Act of 1969, as amended, 42 U.S.C. 4321 *et seq.*
3. Federal-Aid Highway Act of 1970, 23 U.S.C. 109
4. MAP–21, the Moving Ahead for Progress in the 21st Century Act (Pub. L. 112–141)
5. Clean Air Act Amendments of 1990 (CAAA)
6. Clean Water Act of 1977 and 1987
7. Federal Water Pollution Control Act of 1972 (see Clean Water Act of 1977 & 1987)
8. Federal Land Policy and Management Act of 1976 (Paleontological Resources)
9. Noise Control Act of 1972
10. Safe Drinking Water Act of 1944, as amended
11. Endangered Species Act of 1973
12. Executive Order 11990, Protection of Wetlands
13. Executive Order 13112, Invasive Species
14. Executive Order 13186, Migratory Birds
15. Fish and Wildlife Coordination Act of 1934, as amended
16. Migratory Bird Treaty Act
17. Water Bank Act Wetlands Mitigation Banks, ISTEA 1991, Sections 1006–1007
18. Wildflowers, Surface Transportation and Uniform Relocation Act of 1987 Section 130
19. Coastal Zone Management Act of 1972
20. Coastal Zone Management Act Reauthorization Amendments of 1990
21. Executive Order 11988, Floodplain Management
22. Department of Transportation (DOT) Executive Order 5650.2—Floodplain Management and Protection (April 23, 1979)
23. Rivers and Harbors Appropriation Act of 1899, Sections 9 and 10
24. Title VI of the Civil Rights Act of 1964, as amended
25. Executive Order 12898, Federal Actions to Address Environmental Justice and Low-Income Populations

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.)

Authority: 23 U.S.C. 139(*l*)(1).

Issued on: March 30, 2021.

Rodney Whitfield,

Director, Financial Services, Federal Highway Administration, California Division.

[FR Doc. 2021–06856 Filed 4–1–21; 8:45 am]

BILLING CODE 4910–RY–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Notice of Final Federal Agency Actions on Proposed Highway in California

AGENCY: Federal Highway Administration (FHWA), Department of Transportation (DOT).

ACTION: Notice of limitation on claims for judicial review of actions by the California Department of Transportation (Caltrans).

SUMMARY: The FHWA, on behalf of Caltrans, is issuing this notice to announce actions taken by Caltrans that are final. The actions relate to the proposed Dublin Boulevard—North Canyons Parkway Extension Project (Federal-aid project number RTPL–5432(019)) in the cities of Dublin and Livermore, County of Alameda, State of California. Those actions grant licenses, permits, and approvals for the project.

DATES: A claim seeking judicial review of the Federal agency actions on the project will be barred unless the claim is filed on or before August 30, 2021. If the Federal law that authorizes judicial review of a claim provides a time period of less than 150 days for filing such claim, then that shorter time period still applies.

FOR FURTHER INFORMATION CONTACT: For Caltrans: Tom Holstein, Senior Environmental Planner, Caltrans District 4 Office of Local Assistance, 12th Floor, 111 Grand Avenue, Oakland, CA 94623. Office Hours: 8:00 a.m.–5:00 p.m., Pacific Standard Time, telephone (510) 960–0794 or email *tom.holstein@dot.ca.gov.* For FHWA, contact David Tedrick at (916) 498–5024 or email *david.tedrick@dot.gov.*

SUPPLEMENTARY INFORMATION: By this notice, the FHWA, on behalf of Caltrans, is advising the public of final agency actions subject to 23 U.S.C. 139(l)(1). Effective July 1, 2007, the FHWA assigned, and Caltrans assumed, environmental responsibilities for this project pursuant to 23 U.S.C. 327. Notice is hereby given that Caltrans has taken final agency actions subject to 23 U.S.C. 139(l)(1) by issuing licenses, permits, and approvals for the following project in the State of California: The City of Dublin, in cooperation with Caltrans, City of Livermore, Alameda County, and the FHWA, proposes to extend Dublin Boulevard approximately 1.5 miles (mi) eastward through eastern Dublin and an unincorporated portion of the County, terminating at the boundary between the County and Livermore city limits (the Project). The purpose of the project is to improve east-west local roadway connectivity between the City of Dublin and the City of Livermore, and improve mobility, multimodal access, safety and efficiency for all roadway users. The purpose is also to indirectly relieve vehicular congestion in the region by providing a completed freeway reliever route along the north side of I–580 between I–680 and Route 84 (Isabel Avenue). The actions by the Federal agencies, and the laws under which such actions were taken, are described in the Final Environmental Assessment (EA)/Finding of No Significant Impact (FONSI) for the project, issued on February 1, 2021, and in other documents in Caltrans' project records. The FEA, FONSI and other project records are available by contacting Caltrans at the addresses provided above, or can be viewed and downloaded from the project website at: *https://dublin.ca.gov/1919/Dublin-Boulevard-Extension.*

This notice applies to all Federal agency decisions as of the issuance date of this notice and all laws under which such actions were taken, including but not limited to:

1. Council on Environmental Quality Regulations
2. National Environmental Policy Act of 1969, as amended, 42 U.S.C. 4321 *et seq.*
3. Federal-Aid Highway Act of 1970, 23 U.S.C. 109
4. MAP–21, the Moving Ahead for Progress in the 21st Century Act, (Pub. L. 112–141)
5. Clean Air Act Amendments of 1990 (CAAA)
6. Clean Water Act of 1977 and 1987
7. Federal Water Pollution Control Act of 1972 (see Clean Water Act of 1977 and 1987)
8. Federal Land Policy and Management Act of 1976 (Paleontological Resources)
9. Noise Control Act of 1972
10. Safe Drinking Water Act of 1944, as amended
11. Endangered Species Act of 1973
12. Executive Order 11990, Protection of Wetlands
13. Executive Order 13112, Invasive Species
14. Executive Order 13186, Migratory Birds
15. Fish and Wildlife Coordination Act of 1934, as amended
16. Migratory Bird Treaty Act
17. Water Bank Act Wetlands Mitigation Banks, ISTEA 1991, Sections 1006–1007
18. Wildflowers, Surface Transportation and Uniform Relocation Act of 1987 Section 130
19. Coastal Zone Management Act of 1972
20. Coastal Zone Management Act Reauthorization Amendments of 1990
21. Executive Order 11988, Floodplain Management
22. Department of Transportation (DOT) Executive Order 5650.2—Floodplain Management and Protection (April 23, 1979)
23. Rivers and Harbors Appropriation Act of 1899, Section 9 and 10
24. Title VI of the Civil Rights Act of 1964, as amended
25. Executive Order 12898, Federal Actions To Address Environmental Justice and Low-Income Populations.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.)

Authority: 23 U.S.C. 139(l)(1).

Issued on: March 30, 2021.

Rodney Whitfield,

Director, Financial Services, Federal Highway Administration, California Division.

[FR Doc. 2021–06857 Filed 4–1–21; 8:45 am]

BILLING CODE 4910–RY–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Notice of Final Federal Agency Actions on Proposed Highway in California

AGENCY: Federal Highway Administration (FHWA), Department of Transportation (DOT).

ACTION: Notice of limitation on claims for judicial review of actions by the California Department of Transportation (Caltrans).

SUMMARY: The FHWA, on behalf of Caltrans, is issuing this notice to announce actions taken by Caltrans that are final. The actions relate to a proposed highway project, replacement of Morrill Canyon Bridge (Bridge No. 56 0169, Post Mile 3.08) and Strawberry Creek Bridge (Bridge No. 56 0180 Post Mile 53.5) on State Route 74 in the County of Riverside, State of California. Those actions grant licenses, permits, and approvals for the project.

DATES: A claim seeking judicial review of the Federal agency actions on the highway project will be barred unless the claim is filed on or before August 30, 2021. If the Federal law that authorizes judicial review of a claim provides a time period of less than 150 days for filing such claim, then that shorter time period still applies.

FOR FURTHER INFORMATION CONTACT: For Caltrans: Renetta Cloud, Branch Chief of Environmental Studies ''A'', California Department of Transportation, District 8, 464 W. Fourth Street, MS–823, San Bernardino, CA 92401–1400. Phone: (909) 383–6323, Email: *renetta.cloud@dot.ca.gov.* For FHWA, contact David Tedrick at (916) 498–5024 or email *david.tedrick@dot.gov.*

SUPPLEMENTARY INFORMATION: By this notice, the FHWA, on behalf of Caltrans, is advising the public of final agency actions subject to 23 U.S.C. 139(l)(1). Effective July 1, 2007, the FHWA assigned, and Caltrans assumed, environmental responsibilities for this project pursuant to 23 U.S.C. 327. Notice is hereby given that the Caltrans, has taken final agency actions subject to 23 U.S.C. 139(l)(1) by issuing licenses, permits, and approvals for the following highway project in the State of California: Replace Morrill Canyon Bridge (Bridge No. 56 0169, Post Mile

3.08) and Strawberry Creek Bridge (Bridge No. 56 0180, Post Mile 53.5) on State Route 74 in Riverside County. The existing bridges have nonstandard bridge rails that do not meet current federal crash standards and also have nonstandard lane and shoulder widths. The actions by the Federal agencies, and the laws under which such actions were taken, are described in the Final Environmental Assessment (FEA)/ Finding of No Significant Impact (FONSI) for the project, approved on March 19, 2021, and in other documents in the Caltrans' project records. The FEA, FONSI and other project records are available by contacting Caltrans at the addresses provided above. The Caltrans FEA, FONSI can be viewed and downloaded from the project website at *https://www.sr74bridgereplacement.com/,* or at the State of California, Governor's Office of Planning and Research CEQAnet Web Portal at: *https://ceqanet.opr.ca.gov/Project/2021010067.*

This notice applies to all Federal agency decisions as of the issuance date of this notice and all laws under which such actions were taken, including but not limited to:

1. Council on Environmental Quality Regulations
2. National Environmental Policy Act of 1969, as amended, 42 U.S.C. 4321 *et seq.*
3. Federal-Aid Highway Act of 1970, 23 U.S.C. 109
4. MAP–21, the Moving Ahead for Progress in the 21st Century Act (Pub. L. 112–141)
5. Clean Air Act Amendments of 1990 (CAAA)
6. Clean Water Act of 1977 and 1987
7. Federal Water Pollution Control Act of 1972 (see Clean Water Act of 1977 and 1987)
8. Endangered Species Act of 9173
9. Executive Order 11990, Protection of Wetlands
10. Executive Order 13112, Invasive Species
11. Executive Order 13186, Migratory Birds
12. Fish and Wildlife Coordination Act of 1934, as amended
13. Migratory Bird Treaty Act
14. Executive Order 11988, Floodplain Management
15. Department of Transportation (DOT) Executive Order 5650.2—Floodplain Management and Protection (April 23, 1979)
16. Rivers and Harbors Appropriation Act of 1899, Section 9 and 10
17. Title VI of the Civil Rights Act of 1964, as amended

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.)

Authority: 23 U.S.C. 139(l)(1).

Issued on: March 30, 2021.

Rodney Whitfield,

Director, Financial Services, Federal Highway Administration, California Division.

[FR Doc. 2021–06858 Filed 4–1–21; 8:45 am]

BILLING CODE 4910–RY–P

DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

[Docket No. PHMSA–2019–0224; Notice No. 2021–02]

Hazardous Materials: Notice of Public Meetings in 2021 for International Standards on the Transport of Dangerous Goods

AGENCY: Pipeline and Hazardous Materials Safety Administration (PHMSA), Office of Hazardous Materials Safety, Department of Transportation (DOT).

ACTION: Notice of 2021 public meetings.

SUMMARY: This notice announces that PHMSA's Office of Hazardous Materials Safety will host four public meetings during 2021 in advance of certain international meetings. The first meeting will be held in preparation of the International Civil Aviation Organization's (ICAO) Dangerous Goods Panel (DGP) Working Group 21 (WG/21) virtual meeting scheduled for May 24–28, 2021. The second meeting will be held in preparation of the 58th session of the United Nations Sub-Committee of Experts on the Transport of Dangerous Goods (UNSCOE TDG) scheduled for June 28 to July 2, 2021, in Geneva, Switzerland. The third meeting will be held in preparation of the ICAO DGP 28 Meeting (DGP/28) scheduled for September 27 to October 1, 2021. The fourth meeting will be held in preparation of the 59th session of the UNSCOE TDG scheduled for November 29 to December 8, 2021. For each of these meetings, PHMSA will solicit public input on current proposals.

ADDRESSES: Each public meeting will take place virtually approximately two weeks preceding the international meeting. If the guidelines concerning the global health emergency change, PHMSA may hold the meeting(s), concurrent with the virtual sessions, at DOT Headquarters, West Building, 1200 New Jersey Avenue SE, Washington, DC 20590–0001. Specific information for each meeting will be posted when available on the PHMSA website at *https://www.phmsa.dot.gov/international-program/international-program-overview* under ''Upcoming Events.'' This information will include the public meeting date, time, conference call-in number, and details for advanced registration.

FOR FURTHER INFORMATION CONTACT: Steven Webb or Aaron Wiener, PHMSA, U.S. Department of Transportation. Telephone: (202) 366–8553.

SUPPLEMENTARY INFORMATION: The purpose of PHMSA's public meetings held in advance of certain international meetings is to allow the public to give input on the current proposals being considered by the international standards setting bodies.

The 58th and 59th sessions of the UNSCOE TDG will represent the first and second meetings scheduled for the 2021–2022 biennium. The UNSCOE TDG will consider proposals for the 23rd Revised Edition of the *United Nations Recommendations on the Transport of Dangerous Goods: Model Regulations* (Model Regulations), which may be implemented into relevant domestic, regional, and international regulations starting January 1, 2025. Copies of working documents, informal documents, the agenda, and the post-meeting final report may be obtained from the United Nations Transport Division's website at: *http://www.unece.org/trans/danger/danger.html.*

The ICAO WG/21 and DGP/28 meetings will represent the second and final meetings of the 2020–2021 biennium. The ICAO DGP will consider proposals for the 2023–2024 edition of the *Technical Instructions for the Safe Transport of Dangerous Goods by Air* (Doc 9284). Copies of working papers, information papers, the agenda, and the post-meeting final report may be obtained from the ICAO DGP website at: *https://www.icao.int/safety/DangerousGoods/Pages/DGPMeetings.aspx.*

Signed in Washington, DC, on March 30, 2021.

William S. Schoonover,

Associate Administrator for Hazardous Materials Safety, Pipeline and Hazardous Materials Safety Administration.

[FR Doc. 2021–06871 Filed 4–1–21; 8:45 am]

BILLING CODE 4910–60–P

DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

Agency Information Collection Activities: Revision of an Approved Information Collection; Submission for OMB Review; Company-Run Annual Stress Test Reporting Template and Documentation for Covered Institutions With Total Consolidated Assets of $250 Billion or More Under the Dodd-Frank Wall Street Reform and Consumer Protection Act

AGENCY: Office of the Comptroller of the Currency (OCC), Treasury.

ACTION: Notice and request for comment.

SUMMARY: The OCC, 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 a continuing information collection as required by the Paperwork Reduction Act of 1995 (PRA). In accordance with the requirements of the PRA, the OCC may not conduct or sponsor, and the respondent is not required to respond to, an information collection unless it displays a currently valid Office of Management and Budget (OMB) control number. The OCC proposed revisions to a regulatory reporting requirement for national banks and federal savings associations titled, ''Company-Run Annual Stress Test Reporting Template and Documentation for Covered Institutions with Total Consolidated Assets of $250 Billion or More under the Dodd-Frank Wall Street Reform and Consumer Protection Act,'' and is now seeking comment on the final version of those revisions. The OCC also has submitted the collection to OMB for review.

DATES: Comments must be received by May 3, 2021.

ADDRESSES: Commenters are encouraged to submit comments by email, if possible. You may submit comments by any of the following methods:

- *Email: prainfo@occ.treas.gov.*
- *Mail:* Chief Counsel's Office, Attention: Comment Processing, Office of the Comptroller of the Currency, Attention: 1557–0319, 400 7th Street SW, Suite 3E–218, Washington, DC 20219.
- *Hand Delivery/Courier:* 400 7th Street SW, Suite 3E–218, Washington, DC 20219.
- *Fax:* (571) 465–4326.

Instructions: You must include ''OCC'' as the agency name and ''1557–0319'' in your comment. In general, the OCC will publish comments on *www.reginfo.gov* without change, including any business or personal information provided, such as name and address information, email addresses, or phone numbers. Comments received, including attachments and other supporting materials, are part of the public record and subject to public disclosure. Do not include any information in your comment or supporting materials that you consider confidential or inappropriate for public disclosure.

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.

You may review comments and other related materials that pertain to this information collection [1] following the close of the 30-day comment period for this notice by the following method:

- *Viewing Comments Electronically:* Go to *www.reginfo.gov.* Click on the ''Information Collection Review'' tab. Underneath the ''Currently under Review'' section heading, from the drop-down menu select ''Department of Treasury'' and then click ''submit.'' This information collection can be located by searching by OMB control number ''1557–0319'' or ''Company-Run Annual Stress Test Reporting Template and Documentation for Covered Institutions with Total Consolidated Assets of $250 Billion or More under the Dodd-Frank Wall Street Reform and Consumer Protection Act.'' Upon finding the appropriate information collection, click on the related ''ICR Reference Number.'' On the next screen, select ''View Supporting Statement and Other Documents'' and then click on the link to any comment listed at the bottom of the screen.
- For assistance in navigating *www.reginfo.gov,* please contact the Regulatory Information Service Center at (202) 482–7340.

FOR FURTHER INFORMATION CONTACT: Shaquita Merritt, OCC Clearance Officer, (202) 649–5490, Chief Counsel's Office, Office of the Comptroller of the Currency, 400 7th St. SW, Washington, DC 20219. In addition, copies of the templates referenced in this notice can be found on the OCC's website under News and Issuances (*http://www.occ.treas.gov/tools-forms/forms/bank-operations/stress-test-reporting.html*).

SUPPLEMENTARY INFORMATION: The OCC is requesting comment on the following revision to an approved information collection:

Title: Company-Run Annual Stress Test Reporting Template and Documentation for Covered Institutions with Total Consolidated Assets of $250 Billion or More under the Dodd-Frank Wall Street Reform and Consumer Protection Act.

OMB Control No.: 1557–0319.

Description: Section 165(i)(2) of the Dodd-Frank Wall Street Reform and Consumer Protection Act [2] (Dodd-Frank Act) requires certain financial companies, including national banks and federal savings associations, to conduct annual stress tests [3] and requires the primary financial regulatory agency [4] of those financial companies to issue regulations implementing the stress test requirements.[5] Under section 165(i)(2), a covered institution is required to submit to the Board of Governors of the Federal Reserve System (Board) and to its primary financial regulatory agency a report at such time, in such form, and containing such information as the primary financial regulatory agency may require.[6]

On October 9, 2012, the OCC published in the **Federal Register** a final rule implementing the section 165(i)(2) annual stress test requirement.[7] This rule describes the reports and information collections required to meet the reporting requirements under section 165(i)(2). These information collections will be given confidential treatment (5 U.S.C. 552(b)(4)) to the extent permitted by law.

In 2012, the OCC first implemented the reporting templates referenced in the final rule. *See* 77 FR 49485 (August 16, 2012) and 77 FR 66663 (November 6, 2012). The OCC uses the data collected to assess the reasonableness of the stress test results of covered institutions and to provide forward-looking information to the OCC regarding a covered institution's capital adequacy. The OCC also may use the results of the stress tests to determine whether additional analytical techniques and exercises could be appropriate to identify, measure, and monitor risks at the covered institution.

[1] On January 28, 2021, the OCC published a 60-day notice for this information collection, 86 FR 7456.

[2] Public Law 111–203, 124 Stat. 1376, July 2010.

[3] 12 U.S.C. 5365(i)(2)(A).

[4] 12 U.S.C. 5301(12).

[5] 12 U.S.C. 5365(i)(2)(C).

[6] 12 U.S.C. 5365(i)(2)(B).

[7] 77 FR 61238 (October 9, 2012) (codified at 12 CFR part 46).

The stress test results are expected to support ongoing improvement in a covered institution's stress testing practices with respect to its internal assessments of capital adequacy and overall capital planning. The OCC proposed new changes to these templates on January 28, 2021.[8]

The OCC recognizes that many covered institutions with total consolidated assets of $250 billion or more are required to submit reports using reporting form FR Y–14A.[9] The OCC also recognizes the Board has proposed and implemented modifications to the FR Y–14A and, to the extent practical, the OCC is keeping its reporting requirements consistent with the Board's FR Y–14A to minimize burden on covered institutions.[10] Therefore, the OCC is revising its reporting requirements to mirror the Board's FR Y–14A for covered institutions with total consolidated assets of $250 billion or more.

The OCC's changes include updates to various schedules to reflect the adoption of the tailoring framework used to determine the applicability of regulatory capital requirements to large U.S. banking organizations.[11] Other changes include removing the worksheet for reporting advanced approaches risk-weighted assets and the worksheet for reporting pre-provision net revenue (PPNR) metrics as well as technical changes to various individual data items. The changes to the OCC's reporting templates do not include data items in the FR Y–14A associated with several capital buffers related ratios, such as the Board's stress capital buffer requirement adopted in 2020.[12] The changes remove certain items that are collected from Board-regulated institutions but that will not be required from national banks and federal savings associations. The changes remove the OCC Supplemental Schedule, which collects information not collected by the FR Y–14A. While the proposed changes included the deletion of some instructions related to the counterparty default scenario, the final instructions do not include this change. The retention of these instructions is meant to clarify that the requirement to include a counterparty default scenario is not being changed.

The OCC did not receive any comments on the proposed revisions.

Type of Review: Revision.

Affected Public: Businesses or other for-profit.

Estimated Number of Respondents: 8.

Estimated Total Annual Burden: 3,716 hours.

The OCC believes that the systems that covered institutions use to prepare the FR Y–14 reporting templates and submit to the Board will also be used to prepare the reporting templates described in this notice. On January 28, 2021, the OCC published a notice for 60 days of comment concerning this collection, 86 FR 7456. No comments were received. Comments continue to be invited on:

(a) Whether the collection of information is necessary for the proper performance of the functions of the OCC, including whether the information has practical utility;

(b) The accuracy of the OCC'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 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.

Theodore J. Dowd,

Deputy Chief Counsel, Office of the Comptroller of the Currency.

[FR Doc. 2021–06821 Filed 4–1–21; 8:45 am]

BILLING CODE P

DEPARTMENT OF VETERANS AFFAIRS

Advisory Committee on Women Veterans, Notice of Meeting

The Department of Veterans Affairs (VA) gives notice under the Federal Advisory Committee Act, 5 U.S.C. App. 2., that the Advisory Committee on Women Veterans will conduct a virtual meeting on April 27–29, 2021. The meeting will begin and ends as follows:

Date:	Time:	Location:
April 27, 2021	10 a.m.–2:30 p.m. Eastern Standard Time (EST)	See TEAMS link and call-in information below
April 28, 2021	10 a.m.–2:30 p.m. (EST)	See TEAMS link and call-in information below
April 29, 2021	10 a.m.–1 p.m. (EST)	See TEAMS link and call-in information below

The meeting sessions are open to the public.

The purpose of the Committee is to advise the Secretary of Veterans Affairs regarding the needs of women Veterans with respect to health care, rehabilitation, compensation, outreach, and other programs and activities administered by VA designed to meet such needs. The Committee makes recommendations to the Secretary regarding such programs and activities.

The agenda will include updates from the Veterans Health Administration, the Veterans Benefits Administration, and Staff Offices, as well as briefings on other issues impacting women Veterans.

No time will be allocated at this meeting for receiving oral presentations from the public. Interested parties should provide written comments for review by the Committee to Ms. Shannon L. Middleton at *00W@mail.va.gov* no later than April 20, 2021. Any member of the public who wishes to participate in the virtual meeting may use the following TEAMS link: *https://teams.microsoft.com/l/meetup-join/19%3ameeting_Y2Q5ZDI0MGEtNjRkOC00YjM3LWI4MDQtNDQ3YzUwOThjOTE3%40thread.v2/0?context=%7b%22Tid%22%3a%22e95f1b23-abaf-45ee-821d-b7ab251ab3bf%22%2c%22Oid%22%3a%229b0a18fa-89dd-4a43-9705-9c3fda3a37cf%22%7d*. To join the meeting session via phone: 1–872–701–0185; code: 356 042 574#.

Dated: March 29, 2021.

Jelessa M. Burney,

Federal Advisory Committee Management Officer.

[FR Doc. 2021–06760 Filed 4–1–21; 8:45 am]

BILLING CODE P

[8] 86 FR 7456 (Jan. 28, 2021).

[9] *http://www.federalreserve.gov/reportforms.*

[10] 85 FR 56607 (Sept. 14, 2020); 85 FR 63222 (Oct. 7, 2020).

[11] 84 FR 59232 (Nov. 1, 2019).

[12] 85 FR 15576 (March 18, 2020).

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0005]

Agency Information Collection Activity: Application for DIC by Parent(s) (Including Accrued Benefits and Death Compensation)

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: Veteran's Benefits Administration (VBA), Department of Veterans Affairs (VA), is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of a currently approved collection, and allow 60 days for public comment in response to the notice.

DATES: Written comments and recommendations on the proposed collection of information should be received on or before June 1, 2021.

ADDRESSES: Submit written comments on the collection of information through Federal Docket Management System (FDMS) at *www.Regulations.gov* or to Nancy J. Kessinger, Veterans Benefits Administration (20M33), Department of Veterans Affairs, 810 Vermont Avenue NW, Washington, DC 20420 or email to *nancy.kessinger@va.gov.* Please refer to ''OMB Control No. 2900–0005'' in any correspondence. During the comment period, comments may be viewed online through FDMS.

FOR FURTHER INFORMATION CONTACT: Maribel Aponte, Office of Enterprise and Integration, Data Governance Analytics (008), 1717 H Street NW, Washington, DC 20006, (202) 266–4688 or email *maribel.aponte@va.gov.* Please refer to ''OMB Control No. 2900–0005'' in any correspondence.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995, Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, VBA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of VBA's functions, including whether the information will have practical utility; (2) the accuracy of VBA's estimate of the burden of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or the use of other forms of information technology.

Authority: 38 U.S.C. 1121, 1310, 5121.

Title: Application for DIC by Parent(s) (Including Accrued Benefits and Death Compensation) (VA Form 21P–535).

OMB Control Number: 2900–0005.

Type of Review: Extension of a currently approved collection.

Abstract: 38 U.S.C 1121 and 1310 provide for payment of Dependency and Indemnity Compensation (DIC) or Death compensation to parents of a Veteran whose death is service-connected. Parents must also meet income limitation to be eligible for benefits. 38 U.S.C. 5121 provides for payment of accrued benefits. VBA uses 21P–535 to collect the information necessary to determine a surviving parent's eligibility to Parents' DIC benefits.

Affected Public: Individuals and households.

Estimated Annual Burden: 4,320 hours.

Estimated Average Burden per Respondent: 72 minutes.

Frequency of Response: One time.

Estimated Number of Respondents: 3,600.

By direction of the Secretary.

Maribel Aponte,

VA PRA Clearance Officer, Office of Enterprise and Integration/Data Governance Analytics, Department of Veterans Affairs.

[FR Doc. 2021–06759 Filed 4–1–21; 8:45 am]

BILLING CODE 8320–01–P

FEDERAL REGISTER

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Part II

Department of Commerce

National Oceanic and Atmospheric Administration

50 CFR Part 217

Taking Marine Mammals Incidental to the Hampton Roads Bridge Tunnel Expansion Project in Norfolk, Virginia; Final Rule

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 217

[Docket No. 210318–0058]

RIN 0648–BK21

Taking Marine Mammals Incidental to the Hampton Roads Bridge Tunnel Expansion Project in Norfolk, Virginia

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

ACTION: Final rule; notification of issuance of Letters of Authorization.

SUMMARY: NMFS, upon request of the Hampton Roads Connector Partners (HRCP), hereby issues regulations to govern the unintentional taking of marine mammals incidental to construction activities associated with the Hampton Roads Bridge Tunnel Expansion Project (HRBT) in Norfolk, Virginia, over the course of five years (2021–2026). These regulations, which allow for the issuance of Letters of Authorization (LOA) for the incidental take of marine mammals during the described activities and specified timeframes, prescribe the permissible methods of taking and other means of effecting the least practicable adverse impact on marine mammal species or stocks and their habitat, as well as requirements pertaining to the monitoring and reporting of such taking.

DATES: Effective from April 2, 2021 through April 1, 2026.

ADDRESSES: A copy of HRCP's application and supporting documents, as well as a list of the references cited in this document, may be obtained online at: *https://www.fisheries.noaa.gov/action/incidental-take-authorization-hampton-roads-bridge-tunnel-expansion-project-hampton-0.* In case of problems accessing these documents, please call the contact listed below.

FOR FURTHER INFORMATION CONTACT: Robert Pauline, Office of Protected Resources, NMFS, (301) 427–8401.

SUPPLEMENTARY INFORMATION:

Purpose and Need for Regulatory Action

We received an application from the HRCP requesting five-year regulations and authorization to take multiple species of marine mammals. This rule establishes a framework under the authority of the MMPA (16 U.S.C. 1361 *et seq.*) to allow for the authorization of take of marine mammals incidental to the HRCP's construction activities associated with the HRBT. The HRBT is a major road transportation infrastructure project along the existing I–64 highway in Virginia, consisting of roadway improvements, trestle bridges, and bored tunnels crossing the James River between Norfolk and Hampton. The purpose of the project is to address severe traffic congestion at the existing HRBT crossing by increasing traffic capacity and upgrading lanes.

Legal Authority for the Action

Section 101(a)(5)(A) of the MMPA (16 U.S.C. 1371(a)(5)(A)) directs the Secretary of Commerce 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 for up to five years if, after notice and public comment, the agency makes certain findings and issues regulations that set forth permissible methods of taking pursuant to that activity and other means of effecting the ''least practicable adverse impact'' on the affected species or stocks and their habitat (see the discussion below in the Mitigation Measures section), as well as monitoring and reporting requirements. Section 101(a)(5)(A) of the MMPA and the implementing regulations at 50 CFR part 216, subpart I provide the legal basis for issuing this final rule containing five-year regulations, and for any subsequent LOAs. As directed by this legal authority, this final rule contains mitigation, monitoring, and reporting requirements.

Summary of Major Provisions Within the Final Rule

Following is a summary of the major provisions of these regulations regarding HRCP's construction activities. These measures include:

- Shutdown of construction activities under certain circumstances to minimize injury of marine mammals;
- Required monitoring of the construction areas to detect the presence of marine mammals before beginning construction activities;
- Soft start for impact pile driving to allow marine mammals the opportunity to leave the area prior to initiating impact pile driving at full power; and
- Use of bubble curtains during impact driving of steel piles in appropriate circumstances.

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 November 19, 2019, NMFS received an application from HRCP requesting authorization for take of marine mammals incidental to construction activities related to a major road transport infrastructure project along the existing I-64 highway in Virginia, consisting of roadway improvements, trestle bridges, and bored tunnels crossing Hampton Roads between Norfolk and Hampton, Virginia. HRCP submitted a revised application on June 27, 2020 which included changes to construction methods. We determined the application was adequate and complete on September 29, 2020. On October 7, 2020 (85 FR 63256), we published a notice of receipt (NOR) of HRCP's application in the **Federal Register**, requesting comments and information related to the request for thirty days. The proposed rule was subsequently published in the **Federal Register** on January 8, 2021 (86 FR 1588) and requested comments and information from the public. Please see Comments and Responses, below.

HRCP previously applied for an incidental harassment authorization (IHA) to cover initial in-water pile driving work. That IHA was issued on July 10, 2020 (85 FR 48153; August 10, 2020), and is effective until July 9, 2021. Information related to this previous IHA may be found online at: *https://www.fisheries.noaa.gov/action/incidental-take-authorization-hampton-roads-bridge-tunnel-expansion-project-hampton-norfolk.* To date, HRCP has adhered to all mitigation, monitoring, and reporting requirements and has not exceed authorized numbers of take.

HRCP proposed to conduct in-water construction activities, including pile installation and removal, and requested authorization to take five species of marine mammals by Level A and Level B harassment. Neither HRCP nor NMFS expects serious injury or mortality to result from this activity, and none is authorized. The regulations are effective for five years (2021–2026).

Description of Activity

Overview

HRCP is planning to conduct construction activities associated with the HRBT project. This is a major road transport infrastructure project along the existing I-64 highway in Virginia, consisting of roadway improvements, trestle bridges, and bored tunnels crossing Hampton Roads between Norfolk and Hampton. The project will address severe traffic congestion at the existing HRBT crossing by increasing capacity and will include widening I-64 to create an eight-lane facility with a consistent six-lanes between the I-64/I-664 and I-64/I-564 Interchange, which could expand to eight-lanes during peak travel periods with the use of drivable shoulder lanes within the project limits. The project will include the construction of two new two-lane tunnels, expansion of the existing portal islands, and full replacement of the existing North and South bridge-trestles.

The HRBT project will require extensive pile installation and pile removal activities. Pile installation methods will include impact and vibratory driving, jetting, and down-the-hole (DTH) pile installation. Pile removal techniques for temporary piles will include vibratory pile removal or cutting three feet below the mudline. Impact pile installation is projected to take place at 3 to 4 locations simultaneously and there is the potential for as many as 7 pile installation locations operating concurrently with different hammer types. Pile installation and removal can occur at variable rates, from a few minutes one day to several hours the next. HRCP anticipates that between 1 to 10 piles could be installed per day, depending on project scheduling.

The project may incidentally expose marine mammals occurring in the vicinity to elevated levels of underwater sound, thereby resulting in incidental take, by Level A and Level B harassment.

Dates and Duration

The regulations are valid for a period of five years (2021–2026). The specified activities may occur at any time during the five-year period of validity of the regulations. HRCP expects pile driving and removal to occur six days per week. The overall number of anticipated days of pile installation and removal is 312 each year for five years, based on a 6-day work week for an estimated total of 1,560 days.

HRCP plans to conduct work during daylight hours. However, pile installation and removal may extend into evening or nighttime hours as needed to accommodate pile installation requirements (*e.g.,* once pile driving begins, a pile will be driven to design tip elevation). In order to maintain pile integrity and follow safety precautions, pile installation or removal will continue after dark only for piles already in the process of being installed or removed. Installation or removal will not commence on new piles after dark.

Specific Geographic Region

The project area is located in the waterway of Hampton Roads adjacent to the existing bridge and island structures of the HRBT. Hampton Roads is located at the confluence of the James River, the Elizabeth River, the Nansemond River, Willoughby Bay, and the Chesapeake Bay. (see Figures 1–1 and 2–1 in HRCP's application). For additional detail regarding the specified geographic region, please see our Proposed Rule (86 FR 1588; January 8, 2021) and Section 2 of HRCP's application. A map of the HRBT Project Area is provided in Figure 1 below and Figures 1–1 and 2–1 in HRCP's application.

Detailed Description of Specific Activity

The planned project will widen I-64 for approximately 9.9 miles along I-64 from Settlers Landing Road in Hampton, Virginia, to the I-64/I-564 interchange in Norfolk, Virginia. The project will create an eight-lane facility with six consistent use lanes and will include full replacement of the North and South Trestle-Bridges, two new parallel tunnels constructed using a tunnel boring machine (TBM), expansion of the existing portal islands, and widening of the Willoughby Bay Trestle-Bridges, Bay Avenue Bridges, and Oastes Creek Bridges. Also, upland portions of I-64 will be widened to accommodate the additional lanes, the Mallory Street Bridge will be replaced, and the I-64 overpass bridges will be improved.

Pile installation and removal would occur at North Trestle, North Island, South Island, South Trestle, Willoughby Spit, and Willoughby Bay (refer to Figure 1–1 in the application). Table 1 below identifies the various project design segments where in-water marine construction activities are planned that have the potential to affect marine mammals. HRCP plans to install up to 6,798 piles including 24- to 60-inch steel pipe piles, 24- to 54-inch concrete piles, 16-inch timber piles, and sheet piles. This would be done by a variety of methods including use of vibratory hammer, impact hammer, DTH hammer, and/or jetting. HRCP would remove up to 4,728 piles including 24- to 42-inch steel pipe piles, sheet piles, and 16-inch timber piles using a vibratory hammer, direct pull or by cutting them below the mudline. HRCP plans on using multiple hammers concurrently to install and remove piles. Tables 2 through Table 6 show the number and types of piles planned for installation and removal each year by component and segment while Table 7 shows the total number of template piles over five years by location. A detailed description of HRCP's planned activities was provided in our notice of proposed rulemaking (86 FR 1588; January 8, 2021) and is not repeated here. No changes have been made to the specified activities described therein.

TABLE 1—HRBT EXPANSION PROJECT DESIGN SEGMENTS

Project design segment number and name	Construction area
Segment 1a (Hampton)	1
Segment 1b (North Trestle-Bridges) [1]	2
Segment 2a (Tunnel) [1]	3
Segment 3a (South Trestle-Bridge) [1]	2
Segment 3b (Willoughby Spit) [1]	4
Segment 3c (Willoughby Bay Trestle-Bridges) [1]	2
Segment 3d (4th View Street Interchange)	4
Segment 4a (Norfolk-Navy)	4
Segment 5a (I-564 Interchange)	4

[1] Indicates segment includes in-water construction activities.

TABLE 2—NUMBERS AND TYPES OF PILES TO BE INSTALLED AND REMOVED DURING LOA YEAR ONE FOR EACH HRBT PROJECT COMPONENT AND SEGMENT

Project component	Pile size/type and material	Total number of piles to be installed	Total number of piles to be removed	Embedment length (feet)	Number of piles down-the-hole	Average down-the-hole duration per pile (minutes)	Number of piles vibrated/hammered	Average vibratory duration per pile (minutes)	Approximate number of impact strikes per pile	Number of piles per day per hammer	Estimated total number of hours of installation and removal	Number of days of installation and removal
North Trestle (Segment 1b)												
Permanent Piles	54-inch Concrete Cylinder Pipe.	188	0	140	.....	.....	188	.....	2,100	1	376	188
Casing	60-inch Steel Pipe	15	0	60	15	120	.....	.....	.....	3	30	5
North Shore Abutment.	AZ 700–19 Steel Sheet.	63	63	20	.....	.....	126	30	.....	10	63	13
North Island (Segment 2a)												
Hampton Creek Approach Channel Marker.	Existing, 36-inch Steel Pipe.	1	1	.....	.....	.....	1	50	.....	1	2	1
North Island Expansion.	AZ 700–26 Steel Sheet.	176	176	40	.....	.....	352	30	.....	10	176	35
Willoughby Bay (Segment 3c)												
Work Trestle	36-inch Steel Pipe	212	0	100	.....	.....	212	50	40	2	177	106
Moorings (Safe Haven).	42-inch Steel Pipe	40	0	60	.....	.....	40	30	.....	6	20	7
Permanent Piles	24-inch Concrete Square Pipe.	402	0	140	.....	.....	402	.....	2,100	1	804	402
Casing	42-inch Steel Pipe	240	240	60	.....	.....	480	30	.....	6	160	80
Willoughby Spit (Segment 3b)												
Dock on Spuds, Floating Dock.	36-inch Steel Pipe	8	0	100	.....	.....	8	50	40	3	7	3
Dock on Piles, Fixed Pier.	36-inch Steel Pipe	44	0	100	.....	.....	44	50	40	3	37	15
Finger Piers on Timber Piles.	16-inch CCA* Timber.	36	0	60	.....	.....	36	30	.....	4	18	9
South Trestle (Segment 3a)												
Work Trestle	36-inch Steel Pipe	156	0	100	22	120	134	50	40	2	130	78
Temporary MOT* Trestle.	36-inch Steel Pipe	113	0	100	11	120	102	50	40	2	85	51
Casing	42-inch Steel Pipe	30	0	60	.....	.....	30	30	.....	6	15	5
Permanent Piles	54-inch Concrete Cylinder Pipe.	252	0	140	.....	.....	252	.....	2,100	1	504	252
Casing	60-inch Steel Pipe	65	0	60	65	120	.....	.....	.....	3	130	22
South Island (Segment 2a)												
Settlement Reduction Piles.	24-inch Steel Pipe	24	0	85	.....	.....	24	60	40	6	24	4
Deep Foundation Piles.	30-inch Steel Pipe, Concrete Filled.	82	0	85	8	120	74	60	40	6	82	14
Moorings	42-inch Steel Pipe	25	0	60	.....	.....	25	30	.....	6	13	4
South Island Abutment.	AZ 700–19 Steel Sheet.	12	0	20	.....	.....	12	30	.....	10	6	2
Total	.....	2,184	480	.....	.....	.....	.....	.....	.....	.....	.....	1,296

*CCA = Chromated Copper Arsenate; MOT = Maintenance of Traffic; TBM = Tunnel Boring Machine.

TABLE 3—NUMBERS AND TYPES OF PILES TO BE INSTALLED AND REMOVED DURING LOA YEAR TWO FOR EACH HRBT PROJECT COMPONENT AND SEGMENT

Project component	Pile size/type and material	Total number of piles to be installed	Total number of piles to be removed	Embedment length (feet)	Number of piles down-the-hole	Average down-the-hole duration per pile (minutes)	Number of piles vibrated/hammered	Average vibratory duration per pile (minutes)	Approximate number of impact strikes per pile	Number of piles per day per hammer	Estimated total number of hours of installation and removal	Number of days of installation and removal
North Trestle (Segment 1b)												
North Shore Work Trestle.	36-inch Steel Pipe	0	194	100	.....	.....	194	50	40	3	162	65
Work Trestle	36-inch Steel Pipe	182	.....	100	12	120	170	50	40	2	152	91
Jump Trestle	36-inch Steel Pipe	42	38	100	3	120	77	50	40	2	65	39
Permanent Piles	54-inch, Concrete Cylinder Pipe.	102	0	140	.....	.....	102	.....	2,100	1	204	102
North Island (Segment 2a)												
North Island Abutment.	AZ 700–19 Steel Sheet.	96	0	20	.....	.....	96	30	.....	10	48	10
Willoughby Bay (Segment 3c)												
Jump Trestle	36-inch Steel Pipe	84	76	100	.....	.....	160	50	40	2	134	80
Work Trestle	36-inch Steel Pipe	0	126	100	.....	.....	126	50	.....	2	105	63
Permanent Piles	24-inch Concrete Square Pipe.	102	0	140	.....	.....	102	.....	2,100	1	204	102

TABLE 3—NUMBERS AND TYPES OF PILES TO BE INSTALLED AND REMOVED DURING LOA YEAR TWO FOR EACH HRBT PROJECT COMPONENT AND SEGMENT—Continued

Project component	Pile size/type and material	Total number of piles to be installed	Total number of piles to be removed	Embedment length (feet)	Number of piles down-the-hole	Average down-the-hole duration per pile (minutes)	Number of piles vibrated/hammered	Average vibratory duration per pile (minutes)	Approximate number of impact strikes per pile	Number of piles per day per hammer	Estimated total number of hours of installation and removal	Number of days of installation and removal
Casing	42-inch Steel Pipe	60	60	60			120	30		6	60	20
South Trestle (Segment 3a)												
Work Trestle	36-inch Steel Pipe	100	0	100	14	120	86	50	40	2	84	50
Jump Trestle	36-inch Steel Pipe	175	175	100	10	120	350	50	40	2	292	175
Temporary MOT* Trestle.	36-inch Steel Pipe	105	0	100	10	120	95	50		2	80	48
Permanent Piles	54-inch Concrete Cylinder Pipe.	168	0	140			168		2,100	1	336	168
South Island (Segment 2a)												
Settlement Reduction Piles.	24-inch Steel Pipe, Steel.	370	0	85			370	60	40	6	370	62
Deep Foundation Piles.	30-inch Steel Pipe, Concrete Filled.	425	0	85	42	120	383	60	40	6	425	71
South Island Abutment.	AZ 700–19 Steel Sheet.	12	24	20			36	30		10	18	4
South Island Expansion.	AZ 700–26 Steel Sheet.	378	378	70			756	30		10	189	76
Total		2,401	1,071									1,226

*CCA = Chromated Copper Arsenate; MOT = Maintenance of Traffic; TBM = Tunnel Boring Machine.

TABLE 4—NUMBERS AND TYPES OF PILES TO BE INSTALLED AND REMOVED DURING LOA YEAR THREE FOR EACH HRBT PROJECT COMPONENT AND SEGMENT

Project component	Pile size/type and material	Total number of piles to be installed	Total number of piles to be removed	Embedment length (feet)	Number of piles down-the-hole	Average down-the-hole duration per pile (minutes)	Number of piles vibrated/hammered	Average vibratory duration per pile (minutes)	Approximate number of impact strikes per pile	Number of piles per day per hammer	Estimated total number of hours of installation and removal	Number of days of installation and removal
North Trestle (Segment 1b)												
Jump Trestle	36-inch Steel Pipe	228	232	100	9	120	451	50	40	2	376	226
Permanent Piles	54-inch, Concrete Cylinder Pipe.	187	0	140			187		2,100	1	374	187
North Shore Abutment.	AZ 700–19 Steel Sheet.	62	62	20			124	30		10	62	13
North Island (Segment 2a)												
North Island Abutment.	AZ 700–19 Steel Sheet.	32	128	20			160	30		10	80	16
Willoughby Bay (Segment 3c)												
Jump Trestle	36-inch Steel Pipe	460	468	100			928	50	40	2	774	464
Work Trestle	36-inch Steel Pipe	0	86	100			86	50		2	72	43
South Trestle (Segment 3a)												
Jump Trestle	36-inch Steel Pipe	245	245	100	14	120	476	50	40	2	397	238
Demolition Trestle	36-inch Steel Pipe	15	0	100	2	120	13	50	40	2	13	30
Work Trestle	36-inch Steel Pipe	0	182	100			182	50		2	152	91
Temporary MOT* Trestle.	36-inch Steel Pipe	0	110	100			110	50		2	92	55
Permanent Piles	54-inch Concrete Cylinder Pipe.	196	0	140			196		2,100	1	392	196
South Island (Segment 2a)												
South Island Abutment.	AZ 700–19 Steel Sheet.	46	46	20			92	30		10	46	10
Total		1,471	1,559									1,569

*CCA = Chromated Copper Arsenate; MOT = Maintenance of Traffic; TBM = Tunnel Boring Machine.

TABLE 5—NUMBERS AND TYPES OF PILES TO BE INSTALLED AND REMOVED DURING LOA YEAR FOUR FOR EACH HRBT PROJECT COMPONENT AND SEGMENT

Project component	Pile size/type and material	Total number of piles to be installed	Total number of piles to be removed	Embedment length (feet)	Number of piles down-the-hole	Average down-the-hole duration per pile (minutes)	Number of piles vibrated/hammered	Average vibratory duration per pile (minutes)	Approximate number of impact strikes per pile	Number of piles per day per hammer	Estimated total number of hours of installation and removal	Number of days of installation and removal
North Trestle (Segment 1b)												
Demolition Trestle	36-inch Steel Pipe	344	172	100	24	120	492	50	40	2	410	246
Permanent Piles	54-inch, Concrete Cylinder Pipe.	85	0	140			85		2,100	1	170	85

TABLE 5—NUMBERS AND TYPES OF PILES TO BE INSTALLED AND REMOVED DURING LOA YEAR FOUR FOR EACH HRBT PROJECT COMPONENT AND SEGMENT—Continued

Project component	Pile size/type and material	Total number of piles to be installed	Total number of piles to be removed	Embedment length (feet)	Number of piles down-the-hole	Average down-the-hole duration per pile (minutes)	Number of piles vibrated/hammered	Average vibratory duration per pile (minutes)	Approximate number of impact strikes per pile	Number of piles per day per hammer	Estimated total number of hours of installation and removal	Number of days of installation and removal
North Shore Abutment.	AZ 700–19 Steel Sheet.	62	62	20	.....	.....	124	30	.....	10	62	13
South Trestle (Segment 3a)												
Demolition Trestle	36-inch Steel Pipe	57	72	100	10	120	119	50	40	2	99	60
Work Trestle	36-inch Steel Pipe	0	74	100	.....	.....	74	50	.....	2	62	37
Temporary MOT* Trestle.	36-inch Steel Pipe	0	108	100	.....	.....	108	50	.....	2	90	54
Permanent Piles	54-inch Concrete Cylinder Pipe.	194	0	140	.....	.....	194	.....	2,100	1	388	194
South Island (Segment 2a)												
TBM Platform	36-inch Steel Pipe	0	216	140	.....	.....	216	60	.....	2	216	108
Conveyor Trestle	36-inch Steel Pipe	0	84	100	.....	.....	84	50	.....	3	70	42
Total	.....	742	788	.....	.....	.....	.....	.....	.....	.....	.....	839

TABLE 6—NUMBERS AND TYPES OF PILES TO BE INSTALLED AND REMOVED DURING LOA YEAR FIVE FOR EACH HRBT PROJECT COMPONENT AND SEGMENT

Project component	Pile size/type and material	Total number of piles to be installed	Total number of piles to be removed	Embedment length (feet)	Number of piles down-the-hole	Average down-the-hole duration per pile (minutes)	Number of piles vibrated/hammered	Average vibratory duration per pile (minutes)	Approximate number of impact strikes per pile	Number of piles per day per hammer	Estimated total number of hours of removal	Number of days of removal
North Trestle (Segment 1b)												
Moorings	42-inch Steel Pipe	0	36	60	.....	.....	36	30	.....	6	18	6
Moorings	24-inch Steel Pipe	0	30	60	.....	.....	30	30	.....	6	15	5
Work Trestle	36-inch Steel Pipe	0	182	100	.....	.....	182	50	.....	2	152	91
Demolition Trestle	36-inch Steel Pipe	0	172	100	.....	.....	172	50	.....	2	144	86
North Island (Segment 2a)												
Moorings	42-inch Steel Pipe	0	80	60	.....	.....	80	30	.....	6	40	14
Willoughby Bay (Segment 3c)												
Moorings	42-inch Steel Pipe	0	50	60	.....	.....	50	30	.....	6	25	9
Moorings	24-inch Steel Pipe	0	18	60	.....	.....	18	30	.....	6	9	3
Moorings (Safe Haven).	42-inch Steel Pipe	0	90	60	.....	.....	90	30	.....	6	45	15
Willoughby Spit (Segment 3b)												
Dock on Spuds, Floating Dock.	36-inch Steel Pipe	0	8	100	.....	.....	8	50	.....	3	7	3
Dock on Piles, Fixed Pier.	36-inch Steel Pipe	0	44	100	.....	.....	44	50	.....	3	37	15
Finger Piers on Timber Piles.	16-inch CCA*, Timber.	0	36	60	.....	.....	36	30	.....	4	18	9
South Trestle (Segment 3a)												
Moorings	42-inch Steel Pipe	0	41	60	.....	.....	41	30	.....	6	21	7
Moorings	24-inch Steel Pipe	0	18	60	.....	.....	18	30	.....	6	9	3
South Island (Segment 2a)												
Mooring	42-inch Steel Pipe	0	25	60	.....	.....	25	30	.....	6	36	5
Total	.....	0	830	.....	.....	.....	.....	.....	.....	.....	.....	271

TABLE 7—NUMBERS OF TEMPLATE PILES (UP TO 36-INCH STEEL PIPE PILES) TO BE INSTALLED AND REMOVED USING A VIBRATORY HAMMER FOR THE HRBT PROJECT

Project component/location	Pile size/type and material	Estimated number of template piles to be installed	Estimated number of template piles to be removed	Average down-the-hole duration per pile (minutes)	Average vibratory duration per template pile (minutes)	Number of piles per day per component (install and removal)
North Trestle Permanent Piles	54-inch Concrete Cylinder Pipe	750	750	.....	5	8
South Trestle Permanent Piles	54-inch Concrete Cylinder Pipe	1,080	1,080	.....	5	8
Willoughby Bay Permanent Piles	24-inch Concrete Square Pipe	672	672	.....	5	8
Willoughby Spit Fixed Pier*	36-inch Steel Pipe	59	59	.....	5	16
Willoughby Spit Floating Pier*	36-inch Steel Pipe	11	11	.....	5	16
South Island Deep Foundation Piles	30-inch Steel Pipe, Concrete Filled	676	676	120	5	16

TABLE 7—NUMBERS OF TEMPLATE PILES (UP TO 36-INCH STEEL PIPE PILES) TO BE INSTALLED AND REMOVED USING A VIBRATORY HAMMER FOR THE HRBT PROJECT—Continued

Project component/location	Pile size/type and material	Estimated number of template piles to be installed	Estimated number of template piles to be removed	Average down-the-hole duration per pile (minutes)	Average vibratory duration per template pile (minutes)	Number of piles per day per component (install and removal)
South Island Settlement Reduction Piles.	24-inch Steel Pipe	526	526		5	16
Estimated Total Template Pile Driving Actions.		3,774	3,774			
Total number of Temporary Template Pile Driving action.		7,548				

*The piles at Willoughby Spit will be temporary piles for the two temporary piers being constructed to allow barge access; however, these piles will be using a template for installation.

Mitigation, monitoring, and reporting measures are described in detail later in this document (please see Mitigation and Monitoring and Reporting).

Comments and Responses

We published a Proposed Rule in the **Federal Register** on January 8, 2021 (86 FR 1588). During the 30-day comment period, we received a letter from the Marine Mammal Commission (Commission), and comments from two members of the general public. All substantive recommendations are responded to here. The comments are available online at: *https://www.fisheries.noaa.gov/action/incidental-take-authorization-hampton-roads-bridge-tunnel-expansion-project-hampton-0.*

Comment 1: The Commission recommended that NMFS publish a corrected notice in the **Federal Register** that includes, at a minimum, the dates and the correct number(s) of days within a year the activities are expected to occur, the correct input parameters for estimating the extents of the Level A harassment zones, the correct proposed shut-down zones, and the revised numbers of Level A and B harassment takes for Year 5 and provide a 30-day comment period from when the corrected notice publishes. The Commission further recommended that NMFS refrain from publishing any final rule until the correct shut-down zones have been made available for the public to provide meaningful comments during a 30-day comment period, which the Commission asserted would fulfill NMFS's requirements under the Administrative Procedure Act.

Response: NMFS does not agree with the Commission and does not adopt the recommendation. NMFS disagrees that the information presented in association with the proposed rule was insufficient to facilitate public review and comment. NMFS agrees that minor formatting issues occurred in some tables, likely due to their size and complexity. A number of the Commission's suggested corrections are, for the most part, differences of opinion on how available data should be applied to our analysis and, in each case, we have presented reasons why we disagree with specific recommendations. If we did agree that there actually was an error or that the Commission's logic is more appropriate to implement, we have made the recommended changes. We note many of the recommendations by the Commission are detail-oriented and, in NMFS' view, do not provide additional conservation value or meaningfully influence any of the analyses underlying the necessary findings. NMFS is confident that our negligible impact and least practicable adverse impact determinations are valid, and we note that the Commission did not provide any information to the contrary. Overall, there are no substantial changes or new information that would lead us to reach any other conclusions regarding the impact to marine mammals. Any increase in take numbers resulted from, NMFS increasing the number of Level A and B harassment takes for Year 5 by assuming that construction would take the full year instead of a partial year (312 work days instead of 181 work days). For these reasons, NMFS is not republishing a notice of proposed rulemaking.

Comment 2: The Commission recommended that NMFS should determine the appropriate timeframes over which sound exposure levels should be accumulated when estimating the extents of the Level A harassment zones. The Commission also recommended that NMFS prioritize resolving this issue in the near future and consider incorporating animat modeling into its user spreadsheet.

Response: NMFS generally concurs with this recommendation and has prioritized the issue. NMFS is also exploring the applicability of utilizing animat models.

Comment 3: The Commission recommended that NMFS (1) refrain from using any assumed reductions in the operational parameters or presumed residency time when estimating the extents of the Level A harassment zones, (2) verify that a maximum of only one 54-inch concrete pile can be installed at a given location on a given day and, if the impact hammers at North and South Trestle would be in close proximity (500–700 m), assume that the Level A harassment zones would overlap and two piles would be installed per day rather than one, and (3) re-estimate the extents of the Level A harassment zones for all scenarios for HRCP's activities, re-estimate the numbers of Level A harassment takes as necessary, and revise the shut-down zones accordingly in the preamble to and the final rule.

Response: The Commission repeatedly asserts that NMFS' assumptions in evaluating potential Level A harassment are ''arbitrary,'' and states that NMFS' assumptions are made in an ''effort to reduce the size of the Level A harassment zones.'' NMFS disagrees. Although we acknowledge the general lack of data available to inform a species- and location-specific understanding of likely individual residence time in the vicinity of a construction project, the approach espoused by the Commission, in which individual animals are assumed to remain in the construction area for extended periods of time, would be unnecessarily precautionary in many cases. As is typical for marine construction areas, the affected areas considered for this activity are located in urbanized and/or industrialized settings, encompass generally degraded habitat relative to other nearby available habitat, and do not include areas of particular importance for foraging or

other important behaviors. In this context, and given what should be considered generally to be aversive stimulus (*i.e.,* noise from construction activity), it is unrealistic to assume that individual animals remain present for extended periods of time. Therefore, NMFS makes reasonable assumptions to more realistically represent the likely potential for Level A harassment to occur.

For purposes of estimated take by Level A harassment, NMFS assumed that the number of piles, and therefore pile strikes, installed on a given day was 50 percent of the total that was actually planned. Since the marine mammals proposed for authorization are highly mobile, it is unlikely that an animal would remain within an established Level A harassment zone during the entire installation/removal process involving multiple piles throughout a given day. To provide a more realistic estimate of take by Level A harassment, NMFS assumed that an animal would occur within the injury zone for 50 percent of the driving time, (which for purposes of zone size calculation equates to 50 percent of the piles and strikes planned for installation).

HRCP also plans to install a single 54-inch concrete pile at a given driving location per day. Since the largest estimated Level A harassment isopleth is 420 m (*i.e.* low-frequency cetaceans) and the North and South Trestle are a minimum of 500 m apart, the Level A harassment zones associated with each site would not overlap.

Given the information provided above, there is no reason for NMFS to re-estimate the extents of the Level A harassment zones, re-estimate the numbers of Level A harassment takes or revise the shut-down zones.

Comment 4: The Commission recommended that NMFS (1) fully describe the regression analysis or extrapolation method (including the actual source level data points, associated references, and type of regression) used for estimating the SELs-s source level for DTH pile installation of 60-inch piles, (2) explain why such a method was not used for SPLpeak source levels and why NMFS believes that an SPLpeak source level would be the same for 30-, 36-, and 42-inch piles as 60-inch piles, and (3) ensure appropriate review of the regression analysis for the SELs-s source level for 60-inch piles and justification for the SPLpeak source level for 60-inch piles before publishing any final rule, and (4) ensure appropriate review of all regression analyses, extrapolation methods, and proxy source levels for DTH pile installation for all related incidental take authorizations; and (5) specify when it uses source levels associated with different pile types or sizes as proxies and what the differences are.

Response: In summary, NMFS ran regressions in the R programming language (version 3.5.1) using the R Commander Graphical User Interface. Data were average source levels from recordings of single piles and available covariates (*e.g.,* water depth, pile depth, hole size, distance of sound source measurement) where NMFS had access to both published and unpublished DTH monitoring data. The Generalized Linear Model routine in R Commander was used to assess the fit of linear and non-linear multiple regression models of the data. Model assumptions were assessed graphically and mathematically and the best fit of models that fit statistical assumptions and retained statistically significant covariates was chosen mathematically. The best fit model was used to calculate the source level for the extrapolated hole size. The calculated source level was then rounded to the next highest integer decibel for use in this action. The extrapolation technique and software packages employed by NMFS and described below are commonly used and widely accepted by the scientific community.

NMFS did not use SPLpeak source levels when calculating zones as the SEL metric typically results in largest isopleths. Using peak levels in situations when there are a large number of strikes per day will not provide the largest harassment isopleths. NMFS has reviewed the DTH data and methodologies that were utilized and that were used in developing our interim guidance and determined they are the best available.

In Table 11 in the notice of proposed rule, NMFS specified the pile sizes of the proxies it used for impact and vibratory driving. Table 11 in this notice has been revised to display the different pile sizes that were used as proxies for DTH installation. NMFS will include this type of information as appropriate in future ITAs.

Comment 5: The Commission recommended that NMFS (1) have its experts in underwater acoustics and bioacoustics review and finalize as soon as possible, its recommended proxy source levels for impact pile driving of the various pile types and sizes, (2) compile and analyze the source level data for vibratory pile driving of the various pile types and sizes in the near term, and (3) ensure action proponents use consistent and appropriate proxy source levels in all future rulemakings and proposed incidental harassment authorizations.

Response: NMFS concurs with the Commission's recommendation and has prioritized these efforts.

Comment 6: The Commission recommended that NMFS refrain from using the 7-dB source level reduction factor for far-field impacts (≤100 m) and consult with acousticians regarding the appropriate source level reduction factor, if any, to use to minimize far-field effects on marine mammals.

Response: NMFS does not agree with the Commission's assessment on bubble curtain efficacy that is based on near- and far-distance (referred as ''near-field'' and ''far-field'' by the Commission). The Commission noted information provided in Illingworth and Rodkin (2012) suggesting that, in some cases, sound level reductions in the far field may be less (4 to 5 dB reduction approximately 120–750 m from the source). Although the measured levels at far-distances (*i.e.,* >100 m) showed less differences (*e.g.,* 4–5 dB) from those that were measured at near source at 10 m (*e.g.,* 8 dB), this is likely due to propagation effects that some of the sediment-borne acoustic energy that was not attenuated by the bubble curtain re-emerged into the water-column at much further distances. However, this information should not be used to suggest that a different noise level reduction needs to be used for long-distance (Level B harassment distance) impact assessment. Since the applicant used a conservative practical spreading approximation of propagation loss (*i.e.,* 15 log (r)), acoustic energy that is lost due to boundary refraction and reflection is not considered in determining the impact distances, and this loss is in addition to the practical spreading. Therefore, the small differences at far-distances between with and without bubble curtains indicates that the bubble curtain is less effective in attenuating additional acoustic energy beyond that within the water column.

Comment 7: NMFS used the average of average daily counts of seals (13.6) at the Chesapeake Bay Bridge Tunnel (CBBT) to estimate take for the HRBT project. The Commission recommended that NMFS re-estimate the number of Level B harassment takes of harbor seals based on the maximum daily count (45 seals) at the CBBT haul-out sites added to the percentage of the Eastern Shore haul-out sites average of the daily average count (18.3 seals) that occur in the Chesapeake Bay (36 percent). This equates to an additional 7 seals per day for a daily total of 52 takes.

Response: There are no known seal haul outs in the James River and within the Core Monitoring Area which is the area expected to be ensonified during most of the pile installation and removal activities. The CBBT is over 9 nautical miles and the Eastern Shore is approximately 24 nautical miles from the HRBT. Sightings of seals at the HRBT are low and occur only during winter months, November through April. The HRBT project is currently operating under an IHA that authorizes 2,184 takes by Level A and Level B harassment combined for harbor seals. The analysis for the IHA used an average take of 13.6 harbor seals per day. The project began pile installation in September and no seals have been sighted during 5 months of construction under the Project's Marine Mammal Monitoring and Mitigation Program. The estimated 14 harbor seals per day is based on Jones *et al.* (2020), concurring that activities at HRBT would not take the maximum daily harbor seals sighted at CBBT (45 animals). Based on current sighting data and previous sighting trends, 13.6 harbor seals per day is an appropriate estimate which results in 2,122 combined takes by Level A and Level B harassment per year. NMFS does not concur with the Commission's recommendation.

Comment 8: The Commission recommended that NMFS (1) re-estimate the numbers of Level A harassment takes for each species and each of the first four years of activities based on the percentages of days in which the Level A harassment zones exceed the shut-down zones and (2) authorize the revised numbers of Level A harassment takes in addition to the unreduced Level B harassment takes as estimated by the various take estimation methods in the final rule.

Response: The Commission has recommended one reasonable approach for estimating takes by Level A harassment. Given that there are no standard protocols for take estimation, it may reasonably be calculated through other means. NMFS has provided justification for the numbers of take by Level A harassment authorized for each species in the Estimated Take section and refers the reader there.

In response to the Commission's informal comment regarding the lack of certainty of construction plans in Year 5 which was submitted in response to the Notice of Receipt of HRCP's application (85 FR 63256; October 7, 2020), takes for all species were revised and are shown in Table 31. It was assumed that there would be a full year of in-water work (312 days). However, the work would consist of removal of temporary piles. Level A harassment zones associated with this type of activity are small. Therefore, no takes by Level A harassment have been authorized for year 5.

Comment 9: Based on the size of the harassment zones and the fact that PSOs cannot keep track of individuals, particularly harbor seals, as they move amongst the numerous adjacent sites, the Commission stated that an individual could be enumerated as being taken by both Level A and Level B harassment in the same day at the same location and/or at different sites. The Commission noted that this could be an issue for other species as well. As such, the Commission recommended that NMFS not reduce the Level B harassment takes by the Level A harassment takes and authorize the full number of Level B harassment takes for each species.

Response: NMFS agrees that it is possible that a seal or (other marine mammal) could be taken more than once on any given day at the same or at a different activity location. However, this is likely true for most other incidental take authorizations, especially those where the project features more than one active pile installation/removal location. It is unclear how the Commission's approach would reduce or eliminate the potential for double counting of animals. HRCP and NMFS are assuming that a certain number of seals (13.6) could be taken per day in the Level B harassment zone. Of this number, some subset may enter, and remain inside the Level A harassment zone long enough to experience Level A harassment. The Commission referred to previous IHAs where NMFS assumed that there would be a given number of Level B harassment takes per day that were added to a given number of takes by Level A harassment which are not a subset of the Level B harassment takes. Either approach is acceptable as long as an accompanying explanation is provided. Therefore, NMFS does not agree with the Commission's recommendation and does not adopt it.

Comment 10: The Commission recommended that NMFS require HRCP to (1) conduct sound source and sound propagation measurements of (a) impact installation of at least three 24-inch and three 54-inch concrete piles and three 36-inch piles with and three 36-inch piles without a bubble curtain, (b) vibratory installation using multiple hammers over multiple days of activities when three or more hammers are used in the Core Monitoring Area, (c) jetting of at least 3 42-inch piles, and (4) DTH pile installation of six 30-inch, three 36-inch, and three 60-inch piles using near-field and far-field hydrophones placed mid-water column and (2) include in its hydroacoustic monitoring report all of the aforementioned elements. The Commission also recommended that NMFS require HRCP to increase the sizes of the shut-down zones and Level A harassment zones if the measured data indicate that the zones were underestimated.

Response: NMFS does not concur with these recommendations. NMFS agrees that there would be value in conducting sound source verification on some of the piles for which DTH installation data is not available. However, HRCP has not budgeted for the sound source verification and propagation measurements as described by the Commission and a requirement of this nature would not be practicable. Note that HRCP is conducting a hydroacoustic monitoring study as a condition of the US Army Corps of Engineers (USACE) and Virginia Marine Resources Commission (VMRC) permits, and it is being designed in collaboration with NMFS Greater Atlantic Regional Field Office staff to minimize impacts on Atlantic sturgeon. It is likely that some of the pile sizes, pile types, and pile installation methods described by the Commission will be measured and provide value. The study results and preliminary data will be summarized in annual reports, and a final report will be made available at the end of the study.

Comment 11: The Commission recommended that NMFS prohibit HRCP from installing or removing new piles after daylight hours in section 217.24 of the final rule and in any LOA issued under the final rule.

Response: NMFS does not fully concur with the Commission's recommendation. While HRCP has no intention of conducting pile driving activities at night, it is unnecessary to preclude such activity should the need arise (*e.g.,* on an emergency basis or to complete driving of a pile begun during daylight hours, should the construction operator deem it necessary to do so). We disagree with the statement that a prohibition on pile driving activity outside of daylight hours would help to ensure that HRCP is effecting the least practicable adverse impact on the affected species, and the Commission does not justify this assertion.

Comment 12: The Commission recommended that NMFS revise section 217.25(f)(9) in the final rule to require HRCP to report the number of individuals of each species detected within the Level A and B harassment zones, and estimates of the number of

marine mammals taken by Level A and B harassment, by species.

Response: We do not fully concur with the Commission's recommendation and do not adopt it as stated. NMFS agrees with the recommendation to require HRCP to report the number of individuals of each species detected within the Level A and Level B harassment zones and NMFS has already included this requirement in the proposed regulations, and has included it in the final regulations (§ 217.25(f)(9)) and the final authorization (6(c)(viii)). NMFS does not agree with the recommendation to require HRCP to report estimates of the numbers of marine mammals taken by Level A and Level B harassment. The Commission does not explain why it believes this requirement is necessary, nor does it provide recommendations for methods of generating such estimates in a manner that would lead to credible results. NMFS does not agree that the basic method described in footnote 22 of the Commission's 19 November 2020 letter should be expected to yield estimates of total take such that readers of HRCP's report should have confidence that the estimates are reasonable representations of what may have actually occurred.

Comment 13: The Commission recommended that, for the final rule, NMFS include requirements in section 217.25(f) that HRCP include in its monitoring report (1) the estimated percentages of the Level A and B harassment zones that were not visible and the estimated percentage of activities that occurred during nighttime hours, (2) an extrapolation of the estimated takes by Level A and B harassment based on the number of observed exposures within the Level A and B harassment zones and the percentages of the Level A and B harassment zones that were not visible or percentage of activities that occurred during nighttime hours (*i.e.,* extrapolated takes), and (3) the total number of Level A and B harassment takes based on both the observed and extrapolated takes for each species.

Response: We do not fully concur with the Commission's recommendation and do not adopt it as stated. NMFS does agree that HRCP should report the estimated percentage(s) of the Level A and Level B harassment zones that were not visible, and has included this requirement in the final regulations (§ 217.25(f)(3)) and the final authorization (6(c)(iv)). These pieces of information—numbers of individuals of each species detected within the harassment zones and the estimated percentage(s) of the harassment zones that were not visible—may be used to glean an approximate understanding of whether HRCP may have exceeded the amount of take authorized. Although the Commission does not explain its reasoning for offering these recommendations, NMFS' recognizes the basic need to understand whether an LOA-holder may have exceeded its authorized take. The need to accomplish this basic function of reporting does not require that NMFS require applicants to use methods we do not have confidence in to generate estimates of ''total take'' that cannot be considered reliable.

Comment 14: The Commission recommended that NMFS reinforce that HRCP must keep a running tally of the total Level A and B harassment takes, both observed and extrapolated, for each species consistent with section 217.24(a)(10) of the final rule.

Response: The LOA indicates the number of takes authorized for each species. We agree that HRCP must ensure they do not exceed authorized takes, but do not concur with the Commission's repeated recommendations regarding the need for NMFS to oversee incidental take authorization (ITA)-holders' compliance with issued ITAs, including the use of a ''running tally'' of takes. Regardless of the Commission's substitution of the word ''reinforce'' for the word ''ensure,'' as compared with its prior recommendations for other actions, compliance with the terms of an issued LOA remains the responsibility of the LOA-holder.

Comment 15: A private citizen expressed concern that the planned project would require HRCP or NMFS to physically move marine animals away from their natural habitat near the project site to some other location in the Chesapeake Bay. Another private citizen noted that while transportation and relocation of marine mammals may result in Level A and Level B harassment of marine mammals, animals would be spared exposure to construction activities that could result in extreme injury and death.

Response: There will be no capture and relocation of marine mammals away from the project site by NMFS, HRCP, or any other entity. Marine mammals are free to move away from or remain in close proximity to the project area. Neither NMFS nor HRCP will engage in any activities specifically directed to attract or deter marine mammals. Seals that move away from the project area will find suitable natural habitat across much of the lower Chesapeake Bay. Numerous seal haul-outs are located in the lower Bay which are used by seals primarily during the winter.

Changes From Proposed to Final Regulations

NMFS increased take for all species by assuming that pile driving activities would take place for a full year (312 work days per year) during year 5 instead of a partial year (181 work days per year) as was assumed for the proposed rule (86 FR 1588; January 8, 2021) which resulted in increased take numbers for all species. Consequently Table 24, Table 26, Table 29, Table 30 and Table 31 in this notice have been revised to reflect this change. The work in Year 5 is anticipated to consist of removal of temporary piles, and Level A harassment zones associated with this type of activity are small; therefore, no takes by Level A harassment are anticipated or have been authorized for Year 5, and this is reflected in the revised take estimates in those revised tables. Note that table numbers remain unchanged from the proposed rule (86 FR 1588; January 8, 2021). Table 3, Table 14, Table 15, Table 32 and Table 33 have been revised to correct formatting errors found in the proposed rule (86 FR 1588; January 8, 2021). In Table 33, shutdown zones were rounded up to the nearest 5-m increment instead of the nearest 10-m increment for consistency. NMFS has revised Table 11 to display the SL sources as well as pile sizes that were used for DTH installation. NMFS has included a requirement that HRCP should report the estimated percentage(s) of the Level A and Level B harassment zones that were not visible. This may be found in the § 217.25(f)(3) of the regulations. NMFS received an informal comment from the Commission indicating that the HRCP should use 5 PSOs with one stationed at the CBBT when multiple hammers are used. NMFS agreed with this recommendation. However, after careful consideration it was concluded that placing a PSO on the CBBT could present safety hazard. Therefore, this measure will not be required.

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' Stock Assessment Reports (SAR); *https://www.fisheries.noaa.gov/national/marine-mammal-protection/marine-mammal-stock-assessment-reports-region* and more general information about these species (*e.g.,* physical and

behavioral descriptions) may be found on NMFS' website (*https://www.fisheries.noaa.gov/find-species*).

Table 8 lists all species with expected potential for occurrence in the project area and summarizes information related to the population or stock, including regulatory status under the MMPA and ESA and potential biological removal (PBR), where known. For taxonomy, we follow Committee on Taxonomy (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' 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. Atlantic and Gulf of Mexico SARs (*e.g.,* Hayes *et al.,* 2020). All values presented in Table 8 are the most recent available at the time of publication and are available in the 2019 SARs (Hayes *et al.,* 2020) and draft 2020 SARS available at: *https://www.fisheries.noaa.gov/national/marine-mammal-protection/marine-mammal-stock-assessment-reports*.

TABLE 8—MARINE MAMMAL SPECIES LIKELY TO OCCUR NEAR THE PROJECT 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 Balaenopteridae (rorquals):						
Humpback whale	*Megaptera novaeangliae*	Gulf of Maine	-,-; N	1,396 (0; 1,380; see SAR)	22	58
Superfamily Odontoceti (toothed whales, dolphins, and porpoises):						
Family Delphinidae:						
Bottlenose dolphin	*Tursiops truncatus*	Western North Atlantic (WNA) Coastal, Northern Migratory.	-,-; Y	6,639 (0.41; 4,759; 2011)	48	12.2–21.5
		WNA Coastal, Southern Migratory.	-,-; Y	3,751 (0.06; 2,353; 2011)	23	18.3
		Northern North Carolina Estuarine System (NNCES).	-,-; Y	823 (0.06; 782; 2017)	7.8	7–29.8
Family Phocoenidae (porpoises):						
Harbor porpoise	*Phocoena phocoena*	Gulf of Maine/Bay of Fundy	-, -; N	95,543 (0.31; 74,034; see SAR)	851	217
Order Carnivora—Superfamily Pinnipedia						
Family Phocidae (earless seals):						
Harbor seal	*Phoca vitulina*	WNA	-; N	75,834 (0.15; 66,884, see SAR)	2,006	350
Gray seal [4]	*Halichoerus grypus*	WNA	-; N	27,131 (0.19, 23,158, see SAR)	1,359	5,410

[1] Endangered Species Act (ESA) status: Endangered (E), Threatened (T)/MMPA status: Depleted (D). A dash (-) indicates that the species is not listed under the ESA or designated as depleted under the MMPA. Under the MMPA, a strategic stock is one for which the level of direct human-caused mortality exceeds PBR or which is determined to be declining and likely to be listed under the ESA within the foreseeable future. Any species or stock listed under the ESA is automatically designated under the MMPA as depleted and as a strategic stock.

[2] NMFS marine mammal stock assessment reports online at: *https://www.fisheries.noaa.gov/national/marine-mammal-protection/marine-mammal-stock-assessment-reports-region*. CV is coefficient of variation; Nmin is the minimum estimate of stock abundance. In some cases, CV is not applicable.

[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, ship strike). Annual M/SI often cannot be determined precisely and is in some cases presented as a minimum value or range. A CV associated with estimated mortality due to commercial fisheries is presented in some cases.

[4] The NMFS stock abundance estimate applies to U.S. population only, however the actual stock abundance is approximately 451,431.

As indicated above, all five species (with seven managed stocks) in Table 8 temporally and spatially co-occur with the activity to the degree that take is reasonably likely to occur, and we are authorizing take.

A detailed description of the species likely to be affected by HRCP's project, including brief introductions to the species and relevant stocks as well as available information regarding population trends and threats, and information regarding local occurrence, were provided in the proposed rule (86 FR 1588; January 8, 2021); since that time, other than minor stock assessment changes, we are not aware of any changes in the status of these species and stocks; therefore, detailed descriptions are not provided here. Please refer to the proposed rule for these descriptions (86 FR 1588; January 8, 2021). Please also refer to NMFS' website (*https://www.fisheries.noaa.gov/find-species*) for generalized species accounts.

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 9.

TABLE 9—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. Five marine mammal species (three cetacean and two phocid pinniped species) have the reasonable potential to co-occur with the planned construction activities. Please refer to Table 8. Of the cetacean species that may be present, one is classified as a low-frequency cetacean (*i.e.,* humpback whale) one is classified as a mid-frequency cetacean (*i.e.,* bottlenose dolphin), and one is classified as a high-frequency cetacean (*i.e.,* harbor porpoise).

Potential Effects of Specified Activities on Marine Mammals and Their Habitat

The effects of underwater noise from HRCP's activities have the potential to result in harassment of marine mammals in the vicinity of the survey area. The proposed rule (86 FR 1588; January 8, 2021) included a discussion of the effects of anthropogenic noise on marine mammals and the potential effects of underwater noise from HRCP's construction activities on marine mammals and their habitat. That information and analysis is incorporated by reference into this final rule and is not repeated here; please refer to the proposed rule (86 FR 1588; January 8, 2021).

The Estimated Take section in this document includes a quantitative analysis of the number of individuals that are expected to be taken by this activity. The Negligible Impact Analysis and Determination section considers the content of this section, the Estimated Take section, and the Mitigation Measures 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. We also provided additional description of sound sources in our proposed rule (86 FR 1588; January 8, 2021).

Estimated Take

This section provides an estimate of the number of incidental takes authorized by NMFS through the LOA, which will inform both NMFS' consideration of small numbers and the negligible impact determination.

Harassment is the only type of take expected to result from these activities. Except with respect to certain activities not pertinent here, section 3(18) of the MMPA defines harassment as: Any act of pursuit, torment, or annoyance which (i) has the potential to injure a marine mammal or marine mammal stock in the wild (Level A harassment); or (ii) has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering (Level B harassment).

Authorized takes would primarily be by Level B harassment, as noise generated from in-water pile driving (vibratory and impact) 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) to result, primarily for low- and high-frequency species and phocids because predicted auditory injury zones are larger than for mid-frequency species. Auditory injury is unlikely to occur for mid-frequency species. The required 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 marine mammals will be behaviorally disturbed or incur some degree of permanent hearing impairment; (2) the area or volume of water that will be ensonified above these levels in a day; (3) the density or occurrence of marine mammals within these ensonified areas; and, (4) and the number of days of activities. We note that while these basic factors can contribute to a basic calculation to provide an initial prediction of takes, additional information that can qualitatively inform take estimates is also sometimes available (*e.g.,* previous monitoring results or average group size). Below, we describe the factors considered here in more detail and present the take estimate.

Acoustic Thresholds

NMFS recommends the use of acoustic thresholds that identify the received level of underwater sound above which exposed marine mammals would be reasonably expected to experience behavioral disturbance (equated to Level B harassment) or to incur PTS of some degree (equated to Level A harassment).

Level B Harassment for non-explosive sources—Though significantly driven by

received level, the onset of behavioral disturbance from anthropogenic noise exposure is also informed to varying degrees by other factors related to the source (*e.g.,* frequency, predictability, duty cycle), the environment (*e.g.,* bathymetry), and the receiving animals (hearing, motivation, experience, demography, behavioral context) and can be difficult to predict (Southall *et al.,* 2007, Ellison *et al.,* 2012). Based on what the available science indicates and the practical need to use a threshold based on a factor that is both predictable and measurable for most activities, NMFS uses a generalized acoustic threshold based on received level to estimate the onset of Level B harassment. NMFS predicts that marine mammals are likely to experience behavioral disturbance in a manner we consider Level B harassment when exposed to underwater anthropogenic noise above received levels of 120 dB re 1 μPa (rms) for continuous (*e.g.,* vibratory pile-driving, drilling) and above 160 dB re 1 μPa (rms) for non-explosive impulsive (*e.g.,* seismic airguns) or intermittent (*e.g.,* scientific sonar) sources.

HRCP's planned activity includes the use of continuous (vibratory pile driving, DTH pile installation) and impulsive (impact pile driving, DTH pile installation), sources, and therefore the 120 and 160 dB re 1 μPa (rms) criteria are applicable. Note that the 120 dB criterion is used for DTH pile installation, as the continuous noise produced through the activity will produce the largest harassment isopleths.

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). As noted previously, HRCP's planned activity includes the use of impulsive (impact pile driving, DTH pile installation) and non-impulsive (vibratory pile driving/removal, DTH pile installation) sources.

These thresholds are provided in the Table 10 below. The references, analysis, and methodology used in the development of the thresholds are described in NMFS 2018 Technical Guidance, which may be accessed at: *https://www.fisheries.noaa.gov/national/marine-mammal-protection/marine-mammal-acoustic-technical-guidance*.

TABLE 10—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 will feed into identifying the area ensonified above the acoustic thresholds, which include source levels and transmission loss coefficient.

The sound field in the project area is the existing background noise plus additional construction noise from the project. Marine mammals are expected to be affected via sound generated by the primary components of the project (*i.e.,* vibratory pile driving, vibratory pile removal, impact pile driving, jetting, and DTH pile installation).

Sound source levels (SSLs) for each method of installation and removal were estimated using empirical measurements from similar projects in Norfolk and Little Creek (Craney Island), elsewhere in Virginia, or outside of Virginia (California, Florida, Washington, Alaska) (Table 11). It is assumed that jetting will be quieter than vibratory installation of the same pile size, but data for this activity are limited; therefore, SSLs for vibratory installation have been applied to jetting.

DTH pile installation includes drilling (non-impulsive sound) and hammering (impulsive sound) to penetrate rocky substrates (Denes *et al.* 2016; Denes *et al.* 2019; Reyff and Heyvaert 2019). DTH pile installation was initially thought be a primarily non-impulsive noise source. However, Denes *et al.* (2019) concluded from a study conducted in Virginia, nearby the location for this project, that DTH should be characterized as impulsive based on Southall *et al.* (2007), who stated that signals with a >3 dB difference in sound pressure level in a 0.035-second window compared to a 1-second window can be considered impulsive. Therefore, DTH pile installation is treated as both an impulsive and non-impulsive noise source. In order to evaluate Level A harassment, DTH pile installation activities are evaluated according to the impulsive criteria. Level B harassment isopleths are determined by applying non-impulsive criteria and using the 120 dB threshold which is also used for vibratory driving. This approach ensures that the largest ranges to effect for both Level A and Level B harassment are accounted for in the take estimation process.

The source level employed to derive Level B harassment isopleths for DTH pile installation of all pile sizes was derived from the Denes *et al.* (2016) study at Kodiak, Alaska. The median

source value for drilling was reported to be 166 dB RMS.

The source level employed to derive Level A harassment isopleths for DTH pile installation of piles/holes above 24-inch up to 42-inch in diameter came from a combination of (whichever higher for given metric) Reyff and Heyvaert (2019), Denes *et al.* (2019), and Reyff (2020). For pile/holes 60-inch in diameter, values were provided by Reyff (Reyff personal communication) and are shown in Table 11. Note that during some driving scenarios bubble curtains will be used to reduce sound source levels by 7 dB from the values recorded by Denes *et al.* (2019) at the nearby Chesapeake Bay Bridge Tunnel. These are also noted in Table 11.

TABLE 11—SUMMARY OF PROJECT SOUND SOURCE LEVELS (a 10 m)

Method and pile type	Sound source level at 10 meters	Literature source
	dB rms	
Vibratory Hammer:		
42-inch steel pile	168	Austin *et al.* 2016.
36-inch steel pile	167	DoN 2015.
30-inch steel pile, concrete filled	167	DoN 2015.
24-inch steel pile	161	DoN 2015.
16-inch CCA timber pile *	162	Caltrans 2015.
AZ 700–19 steel sheet pile	160	Caltrans 2015.
AZ 700–26 steel sheet pile	160	Caltrans 2015.
Jetting:		
42-inch steel pile	161	Austin *et al.* 2016

Method and pile type	Sound source level at 10 meters			Literature source
	dB rms	dB SEL	dB peak	
DTH Pile Installation:				
30-inch and 36-inch steel pipe piles	[1] 166	[2] 164	[3] 196	Denes *et al.* 2016, 2019; Reyff and Heyvaert 2019; Reyff 2020.
60-inch steel pipe pile	[1] 166	175	196	Denes *et al.* 2016; Reyff pers. comm.
Impact Hammer:				
36-inch steel pile	193	183	210	Caltrans 2015; Chesapeake Tunnel Joint Venture 2018.
36-inch steel pile, attenuated **	186	176	203	Caltrans 2015; Chesapeake Tunnel Joint Venture 2018 +.
30-inch steel pile, concrete filled	195	186	216	DoN 2015.
30-inch steel pile, concrete filled, attenuated **	188	179	209	DoN 2015.
24-inch steel pile	190	177	203	Caltrans 2015.
24-inch steel pile, attenuated **	183	170	196	Caltrans 2015.
54-inch concrete cylinder pile ***	187	177	193	MacGillivray *et al.* 2007.
24-inch concrete square pile	176	166	188	Caltrans 2015.

Note: It is assumed that noise levels during pile installation and removal are similar. dB = decibel: SEL = sound exposure level; dB peak = peak sound level; rms = root mean square; DoN = Department of the Navy; CCA = Chromated Copper Arsenate, Caltrans = California Department of Transportation.

* SSL taken from 12-inch timber piles in Norfolk, Virginia.

** SSLs are a 7 dB reduction from Chesapeake Tunnel Joint Venture 2018 values due to usage of a bubble curtain.

*** SSLs taken from 36-inch concrete square piles, no project specific information provided.

\+ The primary literature source for 36-inch steel pipe attenuated piles is Caltrans 2015; however, the Chesapeake Tunnel Joint Venture 2018 is also cited due to the proximity of the project to the HRBT Project.

[1] SSL for Level B harassment based on DTH-installation of 24-inch steel pile (Denes et al. 2016).

[2] SSL for Level A harassment based on DTH-installation of 42-inch steel piles (Reyff and Heyvaert 2019).

[3] SSL for Level A harassment based on DTH-installation of 42-inch steel piles (Reyff 2020).

Simultaneous use of hammers could result in increased SPLs and harassment zone sizes given the proximity of the component driving sites and the rules of decibel addition. Impact pile installation is projected to take place concurrently at 3 to 4 locations and there is the potential for as many as 7 pile installation locations operating concurrently. NMFS (2018b) handles overlapping sound fields created by the use of more than one hammer differently for impulsive (impact hammer and Level A harassment zones for drilling with a DTH hammer) and continuous sound sources (vibratory hammer and Level B harassment zones for drilling with a DTH hammer) (See Table 12). It is unlikely that the two impact hammers would strike at the same instant, and therefore, the SPLs will not be adjusted regardless of the distance between impact hammers. In this case, each impact hammer will be considered to have its own independent Level A and Level B harassment zones and drilling with a DTH hammer will be considered to have its own independent Level A harassment zones. It will be unlikely that more than one DTH hammer will be used within a day at more than one location; therefore, only one DTH hammer was included in the multiple hammer calculations for Level B harassment zones.

When two continuous noise sources, such as vibratory hammers, have overlapping sound fields, there is potential for higher sound levels than for non-overlapping sources. The method described below was used by Washington State Department of Transportation (WSDOT) and has been used by NMFS (WSDOT 2020).

When two or more vibratory hammers are used simultaneously, and the

isopleth of one sound source encompasses the sound source of another isopleth, the sources are considered additive and combined using the following rules (Table 12) for addition of two simultaneous vibratory hammers, the difference between the two SSLs is calculated, and if that difference is between 0 and 1 dB, 3 dB are added to the higher SSL; if difference is between 2 or 3 dB, 2 dB are added to the highest SSL; if the difference is between 4 to 9 dB, 1 dB is added to the highest SSL; and with differences of 10 or more decibels, there is no addition.

TABLE 12—RULES FOR COMBINING SOUND LEVELS GENERATED DURING PILE INSTALLATION

Hammer types	Difference in SSL	Level A harassment zones	Level B harassment zones
Vibratory, Impact	Any	Use impact zones	Use vibratory zone.
Impact, Impact	Any	Use zones for each pile size and number of strikes.	Use zone for each pile size.
Vibratory, Vibratory	0 or 1 dB	Add 3 dB to the higher source level	Add 3 dB to the higher source level.
	2 or 3 dB	Add 2 dB to the higher source level	Add 2 dB to the higher source level.
	4 to 9 dB	Add 1 dB to the higher source level	Add 1 dB to the higher source level.
	10 dB or more	Add 0 dB to the higher source level	Add 0 dB to the higher source level.

When three or more continuous sound sources are used concurrently, such as vibratory hammers, the three overlapping sources with the highest SSLs are identified. Of the three highest SSLs, the lower two are combined using the above rules, then the combination of the lower two is combined with the highest of the three

It is common for pile installation to start and stop multiple times as each pile is adjusted and its progress is measured and documented. For short durations, it is anticipated that multiple hammers could be in use simultaneously. Following an approach modified from WSDOT in their Biological Assessment manual and described in Table 13, decibel addition calculations were carried out for possible combinations of vibratory installations of 24-, 30-, 36-, and 42-inch steel pipe piles throughout the Project area.

TABLE 13—POSSIBLE VIBRATORY PILE COMBINATIONS

Method		24	24+24	30/36	42	30/36+24	24+42	30/36+30/36	42+30/36	42+42
Pile diameter (inches)	SSL (dB)	161	164	167	168	168	169	170	171	171
Vibratory:										
24	161	164	166	168	169	169	169	171	171	172
DTH	166	167	168	170	170	170	171	172	172	172
30/36	167	168	169	170	171	171	171	172	172	172
42	168	169	169	171	171	171	172	172	172	173

These source levels are used to compute the Level A harassment zones and to estimate the Level B harassment zones.

Level A Harassment Zones

When the NMFS' Technical Guidance (2016) was published, in recognition of the fact that ensonified area/volume could be more technically challenging to predict because of the duration component in the new thresholds, we developed a User Spreadsheet that includes tools to help predict a simple isopleth that can be used in conjunction with marine mammal density or occurrence to help predict takes. We note that because of some of the assumptions included in the methods used for these tools, we anticipate that isopleths produced are typically going to be overestimates of some degree, which may result in some degree of overestimate of Level A harassment take. However, these tools offer the best way to predict appropriate isopleths when more sophisticated 3D modeling methods are not available, and NMFS continues to develop ways to quantitatively refine these tools, and will qualitatively address the output where appropriate. For stationary sources such as in-water pile driving activities during the HRBT project, NMFS User Spreadsheet predicts the closest distance at which, if a marine mammal remained at that distance the whole duration of the activity, it would incur PTS.

Inputs used in the User Spreadsheet (Table 14 and Table 15) and the resulting isopleths are reported below (Table 14). Level A harassment thresholds for impulsive sound sources (impact pile driving, DTH pile installation) are defined for both SELcum and Peak SPL, with the threshold that results in the largest modeled isopleth for each marine mammal hearing group used to establish the effective Level A harassment isopleth.

For purposes of estimated take by Level A harassment, NMFS assumed that the strike rate for impact pile installation was 50 percent of the estimated number of strikes displayed in Table 14 and 15. Similarly, for vibratory driving NMFS assumed that the driving time for each pile was 50 percent of the estimated total. For the DTH hammer calculations, Reyff and Heyvaert 2019 identified a strike rate of 10 Hz. This was also reduced by 50 percent to 5 Hz which to achieve the same 50 percent Level A harassment reduction as was done for impact and vibratory driving. Strikes per Pile values were not altered when calculating Level A harassment zones for DTH pile installation.

Since the marine mammals authorized for take are highly mobile, it is unlikely that an animal would remain within an established Level A harassment zone for the entire duration or number of strikes associated with installation or removal of a specified

number of piles throughout a given day. This was done to provide more realistic take estimates by Level A harassment. NMFS applied this reduction across all pile sizes, types, and installation/removal methods as shown in Tables 14 and 15. Additionally, note that under some driving scenarios a 7 dB attenuation was applied to impact installation of 24-inch steel, 30-inch Steel, and 36-inch steel due to use of bubble curtains as shown in Table 14.

The calculated Level A isopleths for different size pile and driving types are shown in Tables 16–18.

TABLE 14—USER SPREADSHEET INPUT PARAMETERS USED FOR CALCULATING LEVEL A HARASSMENT ISOPLETHS FOR VIBRATORY AND IMPACT HAMMERS *

Model parameter	Steel sheet	16-inch timber	24-inch steel			24-inch concrete	30-inch steel, concrete filled			36-inch steel						42-inch steel		54-inch concrete
	Vib	Vib	Vib	Imp	Imp-bubble	Imp	Vib	Imp	Imp-bubble	Vib	Vib	Vib	Vib	Imp	Imp-bubble	Vib	Jetting	Imp
Spreadsheet Tab	A.1	A.1	A.1	E.1	E.1	E.1	A.1	E.1	E.1	A.1	A.1	A.1	A.1	E.1	E.1	A.1	A.1	E.1
Weighting Factor Adjustment (kHz)	2.5	2.5	2.5	2	2	2	2.5	2	2	2.5	2.5	2.5	2.5	2	2	2.5	2.5	2
Sound Pressure Level (SPL_{rms})	160	162	161	190	183	176	167	195	188	167	167	167	167	193	186	168	*161*	*187*
SEL_{ss} ($L_{E,\ p,\ single\ strike}$) at 10 meters	.....	.....	.....	177	170	166	.....	186	179	.....	.....	.....	.....	183	176	.....	.....	177
$L_{p,\ 0\text{-}pk}$ at 10 meters	.....	.....	.....	203	196	188	.....	216	209	.....	.....	.....	.....	210	203	.....	.....	193
Number of piles within 24-hour period	10	4	6	6	6	1	6	6	6	1	8 & 16	2 & 3	2	2 & 3	2	6	1	1
Estimated Duration to drive a single pile (min)	30	30	30/60	.....	.....	.....	60	.....	.....	50	5	50	60	.....	.....	30	*30*	.....
50% of Duration to drive a single pile (min)	15	15	15/30	.....	.....	.....	30	.....	.....	25	2.5	25	30	.....	.....	15	15	.....
Transmission loss coefficient	15	15	15	15	15	15	15	15	15	15	15	15	15	15	15	15	15	15
Distance from sound pressure level (SPL_{rms}) measurement (m)	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10
Estimated Strikes per pile	.....	.....	.....	40	40	2,100	.....	40	40	.....	.....	.....	.....	40	40	.....	.....	2,100
50% of Strikes per pile	.....	.....	.....	20	20	1,050	.....	20	20	.....	.....	.....	.....	20	20	.....	.....	1,050

* To provide a more realistic estimate of take by Level A harassment, NMFS assumes that an animal would occur within the vicinity of the construction activity for 50 percent of the pile installation and removal time. HRCP has implemented this reduction across all pile sizes, types, and installation and removal methods. For purposes of vibratory installation, the duration of installation was reduced by half to accomplish the reduction. For impact installation, the number of strikes per pile was reduced by half to accomplish the reduction.

TABLE 15—USER SPREADSHEET INPUT PARAMETERS USED FOR CALCULATING LEVEL A HARASSMENT ISOPLETHS FOR DRILLING WITH A DTH HAMMER *

Model parameter	30-inch steel, concrete filled	36-inch steel	60-inch steel
	DTH	DTH	DTH
Spreadsheet Tab	E.2	E.2	E.2
Weighting Factor Adjustment (kilohertz)	2	2	2
SEL_{ss} ($L_{E,\ p,\ single\ strike}$) at 10 meters	164	164	175
$L_{p,\ 0\text{-}pk}$ at 10 meters	196	196	196
Number of piles per day	6	2	3
Duration to drive a pile (minutes)	120	120	120
Transmission loss coefficient	15	15	15
Distance from source (meters)	10	10	10
Estimated Number of Strikes per 24-hour period	432,000	144,000	216,000
50% of Strikes per 24-hour period	216,000	72,000	108,000
Strike rate (Hz) average strikes per second	10	10	10
50% of Strike rate (Hz) average strikes per second	5	5	5

* To provide a more realistic estimate of take by Level A harassment, NMFS assumes that an animal would occur within the vicinity of the construction activity for 50 percent of the pile installation and removal time, which equates to 50 percent of the piles planned for installation and removal. HRCP has implemented this reduction across all pile sizes, types, and installation and removal methods. For drilling with a DTH hammer installation, the strike rate (Hz) was reduced by half to accomplish the reduction. A 10 Hz strike rate was identified from Reyff and Heyvaert 2019 which was then reduced by 50% to 5 Hz to accomplish the 50% Level A reduction.

TABLE 16—CALCULATED DISTANCES TO LEVEL A HARASSMENT ISOPLETHS DURING VIBRATORY INSTALLATION, AND VIBRATORY REMOVAL AND JETTING INSTALLATION WITH NO ATTENUATION

Project component	Pile size/type	Minutes per pile (reduced by half)	Number of piles per day	Level A harassment isopleth distance (meters)				Level A harassment isopleth areas (km^2)			
				Cetaceans			Pinnipeds	Cetaceans			Pinnipeds
				LF	MF	HF	PW	LF	MF	HF	PW
Vibratory Hammer											
North Trestle:											
Moorings	42-inch Pipe, Steel	15	6	27	3	39	16	.....	.....	<0.01	.....
Template Piles	36-inch Pipe, Steel	2.5	8	9	1	13	5	.....	.....	<0.01	.....

TABLE 16—CALCULATED DISTANCES TO LEVEL A HARASSMENT ISOPLETHS DURING VIBRATORY INSTALLATION, AND VIBRATORY REMOVAL AND JETTING INSTALLATION WITH NO ATTENUATION—Continued

Project component	Pile size/type	Minutes per pile (reduced by half)	Number of piles per day	Level A harassment isopleth distance (meters)				Level A harassment isopleth areas (km^2)			
				Cetaceans			Pinnipeds	Cetaceans			Pinnipeds
				LF	MF	HF	PW	LF	MF	HF	PW
North Shore Work Trestle, Jump Trestle, Work Trestle, Demolition Trestle.	36-inch Pipe, Steel	25	2	16	2	23	10	.....	.....	<0.01	.....
Moorings	24-inch Pipe, Steel	15	6	9	1	14	6	.....	.....	<0.01	.....
North Shore Abutment.	AZ 700–19 Sheet, Steel.	15	10	11	1	16	7	.....	.....	<0.01	.....
North Island:											
Moorings	42-inch Pipe, Steel	15	6	27	3	39	16	.....	.....	<0.01	.....
Hampton Creek Approach Channel Marker.	Existing, 36-inch Pipe, Steel.	25	1	10	1	15	6	.....	.....	<0.01	.....
North Island Expansion.	AZ 700–26 Sheet, Steel.	15	10	11	1	16	7	.....	.....	<0.01	.....
North Island Abutment.	AZ 700–19 Sheet, Steel.	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
South Island Abutment.	AZ 700–19 Sheet, Steel.	15	10	11	1	16	7	.....	.....	<0.01	.....
South Island Expansion.	AZ 700–26 Sheet, Steel.	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
Settlement Reduction Piles.	24-inch Pipe, Steel	30	6	15	2	21	9	.....	.....	.....	.....
Deep Foundation Piles.	30-inch Pipe, Steel, Concrete Filled.	30	6	36	4	53	22	.....	.....	.....	.....
TBM Platform	36-inch Pipe, Steel	30	2	18	2	26	11	.....	.....	.....	.....
Conveyor Trestle.	36-inch Pipe, Steel	25	3	20	2	30	13	.....	.....	.....	.....
Moorings	42-inch Pipe, Steel	15	6	27	3	39	16	.....	.....	<0.01	.....
Template Piles	36-inch Pipe, Steel	2.5	16	14	2	20	8	.....	.....	<0.01	.....
South Trestle:											
Template Piles	36-inch Pipe, Steel	2.5	8	9	1	13	5	.....	.....	<0.01	.....
Moorings, Casings.	42-inch Pipe, Steel	15	6	27	3	39	16	.....	.....	<0.01	.....
Work Trestle, Jump Trestle, Demolition Trestle, Temporary MOT Trestle.	36-inch Pipe, Steel	25	2	16	2	23	10	.....	.....	.....	.....
Moorings	24-inch Pipe, Steel	15	6	9	1	14	6	.....	.....	.....	.....
Willoughby Bay:											
Moorings	24-inch Pipe, Steel	15	6	9	1	14	6	.....	.....	<0.01	.....
Work Trestle, Jump Trestle.	36-inch Pipe, Steel	25	2	16	2	23	.....	.....	.....	10	.....
Moorings (Safe Haven).	42-inch Pipe, Steel	15	6	27	3	39	16	.....	.....	<0.01	.....
Casing	42-inch Pipe, Steel	15	6	27	3	39	16	.....	.....	<0.01	.....
Template Piles	36-inch Pipe, Steel	2.5	8	9	1	13	5	.....	.....	<0.01	.....
Willoughby Spit Laydown Area:											
Finger Piers on Timber Piles.	16-inch CCA, Timber.	15	4	8	1	12	5	.....	.....	<0.01	.....
Dock on Spuds, Dock on Piles.	36-inch Pipe, Steel	25	3	20	2	30	13	.....	.....	<0.01	.....
Template Piles	36-inch Pipe, Steel	2.5	16	14	2	20	8	.....	.....	<0.01	.....
Jetting											
Willoughby Bay:											
Casing	42-inch Pipe, Steel	15	1	3	1	4	2	.....	.....	<0.01	.....

TABLE 17—CALCULATED DISTANCES TO LEVEL A HARASSMENT ISOPLETHS DURING IMPACT INSTALLATION AND DTH PILE INSTALLATION WITH NO ATTENUATION

Project component	Pile size/type	Number of strikes per pile or strike rate * (reduced by half)	Number of piles per day	Level A harassment isopleth distance (meters)				Level A harassment isopleth areas (km^2)			
				Cetaceans		Pinnipeds		Cetaceans		Pinnipeds	
				LF	MF	HF	PW	LF	MF	HF	PW
North Trestle											
Permanent Piles	54-inch Pipe, Concrete Cylinder.	1,050	1	411	15	490	220	0.53	<0.001	0.75	0.15
Work Trestle, Jump Trestle, Demolition Trestle.	36-inch Pipe, Steel	20	2	117	5	140	63	0.04	<0.001	0.06	0.01
South Island											
Settlement Reduction Piles.	24-inch Pipe, Steel	20	6	97	4	116	52	0.02	<0.001	0.03	0.01
Deep Foundation Piles.	30-inch Pipe, Steel, Concrete Filled.	20	6	386	14	459	207	0.35	<0.001	0.49	0.10
South Trestle											
Work Trestle, Jump Trestle, Demolition Trestle, Temporary MOT Trestle.	36-inch Pipe, Steel	20	2	117	5	140	63	0.04	<0.001	0.06	0.01
Permanent Piles	54-inch Pipe, Concrete Cylinder.	1,050	1	411	15	490	220	0.53	<0.001	0.75	0.15
Willoughby Bay											
Work Trestle, Jump Trestle.	36-inch Pipe, Steel	20	2	117	5	140	63	0.04	<0.001	0.06	0.01
Permanent Piles	24-inch Pipe, Concrete Square.	1,050	1	76	3	91	41	0.02	<0.001	0.03	<0.01
Willoughby Spit Laydown Area											
Dock on Spuds, Dock on Piles.	36-inch Pipe, Steel	20	3	154	6	183	82	0.12	0.09	<0.001	0.03
DTH Pile Installation * North Trestle											
Work Trestle, Jump Trestle, Demolition Trestle.	36-inch Pipe, Steel	36,000	2	936	34	1,115	501	1.81	<0.01	2.27	0.78
Casing	60-inch Pipe, Steel	36,000	3	6,633	236	7,901	3,550	34.04	0.18	43.75	13.03
South Island											
Deep Foundation Piles.	30-inch Pipe, Steel, Concrete Filled.	36,000	6	1,946	70	2,318	1,042	8.28	<0.01	11.30	2.49
South Trestle											
Work Trestle, Jump Trestle, Temporary MOT Trestle, Demolition Trestle.	36-inch Pipe, Steel	36,000	2	936	34	1,115	501	2.67	<0.01	3.67	0.79
Casing	60-inch Pipe, Steel	36,000	3	6,633	236	7,901	3,550	77.50	0.18	102.16	27.12

* For DTH Hammer calculations, a 10 Hz strike rate was identified from Reyff and Heyvaert 2019 which was then reduced by 50% to 5 Hz to accomplish the 50% Level A harassment reduction. Strikes per Pile values were not reduced for DTH methods.

TABLE 18—CALCULATED DISTANCES TO LEVEL A HARASSMENT ISOPLETHS DURING IMPACT INSTALLATION WITH ATTENUATION

Project component	Pile size/type	Number of strikes per pile (reduced by half)	Number of piles per day	Level A harassment isopleth distance (meters)				Level A harassment isopleth areas (km^2)			
				Cetaceans		Pinnipeds		Cetaceans		Pinnipeds	
				LF	MF	HF	PW	LF	MF	HF	PW
Impact Hammer											
South Island:											
Settlement Reduction Piles.	24-inch Pipe, Steel	20	6	33	2	40	18	<0.01			
Deep Foundation Piles.	30-inch Pipe, Steel, Concrete Filled.	20	6	132	5	157	71	0.04	<0.001	0.06	0.01
South Trestle:											
Temporary MOT Trestle. Jump Trestle Work Trestle	36-inch Pipe, Steel	20	2	40	2	48	22	<0.001		0.007	0.002

Level B Harassment Zones

Transmission loss (TL) is the decrease in acoustic intensity as an acoustic pressure wave propagates out from a source. TL parameters vary with frequency, temperature, sea conditions, current, source and receiver depth, water depth, water chemistry, and bottom composition and topography. The general formula for underwater TL is:

$$TL = B * Log10 (R1/R2),$$

Where

TL = transmission loss in dB

B = transmission loss coefficient; for practical spreading equals 15

R1 = the distance of the modeled SPL from the driven pile, and

R2 = the distance from the driven pile of the initial measurement

The recommended TL coefficient for most nearshore environments is the practical spreading value of 15. This value results in an expected propagation environment that would lie between spherical and cylindrical spreading loss conditions, which is the most appropriate assumption for HRCP's planned activity.

Using the practical spreading model, HRCP determined underwater noise would fall below the behavioral effects threshold of 120 dB rms for marine mammals at a maximum radial distance of 15,849 m for vibratory pile driving of 42- and 36-inch diameter piles. Other activities including impact driving and vibratory installation sheet piles have smaller Level B harassment zones. All Level B harassment isopleths are reported in Table 19 below. It should be noted that based on the geography of the project area, and pile driving locations, in many cases sound will not reach the full distance of the Level B harassment isopleth. The radial distances provided in Table 19 and Table 20 are shown as calculated. However, the land areas presented in these tables take into account truncation by various land masses in the project area and only shows the in-water ensonified area.

TABLE 19—DISTANCES TO LEVEL B HARASSMENT ISOPLETHS FOR DIFFERENT PILE SIZES AND TYPES AND METHODS OF INSTALLATION AND REMOVAL WITH NO ATTENUATION

Location and component	Method and pile type	Level B isopleth (m), unattenuated	Level B area unattenuated (km^2)
Vibratory Hammer (Level B Isopleth = 120 dB)			
North Trestle:			
Moorings	42-inch steel piles	15,849	96.78
Template Piles	36-inch steel piles	13,594	85.53
Demolition Trestle	36-inch steel piles	13,594	85.53
North Shore Work Trestle	36-inch steel piles	13,594	85.53
Jump Trestle	36-inch steel piles	13,594	85.53
Work Trestle	36-inch steel piles	13,594	85.53
Moorings	24-inch steel piles	5,412	25.34
North Shore Abutment	AZ 700–19 steel sheet piles	4,642	19.81
North Island:			
Moorings North	42-inch steel piles	15,849	103.86
Moorings South	42-inch steel piles	15,849	201.04
Hampton Creek Approach Channel Marker	36-inch steel pile	13,594	93.99
North Island Expansion North	AZ 700–26 steel sheet piles	4,642	26.06
North Island Expansion South	AZ 700–26 steel sheet piles	4,642	36.73
North Island Abutment North	AZ 700–19 steel sheet piles	4,642	26.06
North Island Abutment South	AZ 700–19 steel sheet piles	4,642	36.73
South Island:			
Moorings	42-inch steel piles	15,849	246.86
Template Piles	36-inch steel piles	13,594	81.75

TABLE 19—DISTANCES TO LEVEL B HARASSMENT ISOPLETHS FOR DIFFERENT PILE SIZES AND TYPES AND METHODS OF INSTALLATION AND REMOVAL WITH NO ATTENUATION—Continued

Location and component	Method and pile type	Level B isopleth (m), unattenuated	Level B area unattenuated (km^2)
TBM Platform	36-inch steel piles	13,594	81.75
Conveyor Trestle	36-inch steel piles	13,594	81.75
Deep Foundation Piles	30-inch steel piles, concrete filled	13,594	194.04
Settlement Reduction Piles	24-inch steel piles	5,412	45.10
South Island Expansion	AZ 700–26 steel sheet piles	4,642	34.69
South Island Abutment	AZ 700–19 steel sheet piles	4,642	34.69
South Trestle:			
Moorings, Casings	42-inch steel piles	15,849	305.30
Template Piles	36-inch steel piles	13,594	235.60
Temporary MOT Trestle	36-inch steel piles	13,594	235.60
Jump Trestle	36-inch steel piles	13,594	235.60
Work Trestle	36-inch steel piles	13,594	235.60
Demolition Trestle	36-inch steel piles	13,594	235.60
Moorings	24-inch steel piles	5,412	55.87
Willoughby Bay:			
Moorings (Safe Haven)	42-inch steel piles	15,849	5.52
Moorings	42-inch steel piles	15,849	5.52
Casing	42-inch steel piles	15,849	5.52
Template Piles	36-inch steel piles	13,594	5.52
Work Trestle	36-inch steel piles	13,594	5.52
Jump Trestle	36-inch steel piles	13,594	5.52
Moorings	24-inch steel piles	5,412	5.52
Willoughby Spit Laydown Area:			
Template Piles	36-inch steel piles	13,594	74.45
Dock on Spuds	36-inch steel piles	13,594	74.45
Dock on Piles	36-inch steel piles	13,594	74.45
Finger Piers	16-inch CCA timber piles	6,310	40.62
DTH Pile Installation (Level B Isopleth = 120 dB)			
North Trestle Casings	60-inch steel piles	11,659	72.28
North Trestle Work Trestle, Jump Trestle, Demolition Piles, Templates.	36-inch steel piles	11,659	72.28
South Island Deep Foundation Piles	30-inch steel piles, concrete filled	11,659	152.79
South Trestle Casings	60-inch steel piles	11,659	184.12
South Trestle Work Trestle, Jump Trestle, Demolition Trestle, Temporary MOT Trestle, Templates.	36-inch steel piles	11,659	14.12
Willoughby Bay Templates	36-inch steel piles	11,659	5.52
Jetting (Level B Isopleth = 120 dB)			
Willoughby Bay:			
Casing	42-inch steel piles	5,412	5.52
Impact Hammer (Level B Isopleth = 160 dB)			
North Trestle:			
Permanent Piles	54-inch concrete cylinder piles	631	1.14
Work Trestle	36-inch steel piles	1,585	3.81
Jump Trestle	36-inch steel piles	1,585	3.81
Demolition Trestle	36-inch steel piles	1,585	3.81
South Island:			
Deep Foundation Piles	30-inch steel piles, concrete filled	2,154	9.91
Settlement Reduction Piles	24-inch steel piles	1,000	2.29
South Trestle:			
Permanent Piles	54-inch concrete cylinder piles	631	1.25
Work Trestle	36-inch steel piles	1,585	6.84
Jump Trestle	36-inch steel piles	1,585	6.84
Temporary MOT Trestle	36-inch steel piles	1,585	6.84
Demolition Trestle	36-inch steel piles	1,585	6.84
Willoughby Bay:			
Permanent Piles	24-inch concrete cylinder piles	117	0.04
Work Trestle	36-inch steel piles	1,585	3.15
Jump Trestle	36-inch steel piles	1,585	3.15
Willoughby Spit Laydown Area:			
Dock on Spuds	36-inch steel piles	1,585	6.03
Dock on Piles	36-inch steel piles	1,585	6.03

TABLE 20—DISTANCES TO LEVEL B HARASSMENT ISOPLETHS FOR INSTALLATION AND REMOVAL OF STEEL PIPE PILES WITH ATTENUATION BUBBLE CURTAIN

Location and component	Method and pile type	Level B isopleth (m), attenuated	Level B area attenuated (km^2)
Impact Hammer (Level B Isopleth = 160 dB)			
South Island:			
Deep Foundation Piles	30-inch steel piles, concrete filled	736	1.25
Settlement Reduction Piles	24-inch steel piles	341	0.27
South Trestle:			
Temporary MOT Trestle, Work Trestle, Jump Trestle.	36-inch steel piles	541	0.68

The daily duration in which more than one vibratory hammer or DTH pile installation could occur is difficult to predict and quantify. As noted previously, DTH pile installation is considered by NMFS to be both impulsive and continuous. Therefore, decibel addition will not be used to calculate Level A harassment zones during concurrent DTH pile installation activities. The Level A harassment zones for each DTH activity will be based on a single DTH hammer. To simplify implementation of Level A harassment zones for use of more than one vibratory hammer within a day and/or during simultaneous use of multiple vibratory hammers with overlapping isopleths, whether at a single site or multiple sites, Level A harassment zone sizes were calculated for the longest anticipated duration of the largest pile sizes that could be installed within a day. For example, if 18 42-inch steel pipe piles were installed with a vibratory hammer on a single day by multiple hammers with overlapping sound fields, the Level A harassment zone for each of the functional hearing groups likely to be present near the project area would remain smaller than 100 meters as shown in Table 21 with the largest Level A harassment zone being 81 m for harbor porpoises. However, it is highly unlikely that a harbor porpoise could accumulate enough sound from the installation of multiple piles in multiple locations for the duration required to meet the calculated Level A harassment threshold. Furthermore, installation of 18 42-inch steel pipe piles likely represents an unrealistic level of efficiency that will not be achieved in the field. Other combinations of pile sizes and numbers would result in Level A harassment zones smaller than 100 meters. To be precautionary, shutdown zones outlined in Table 21 for each species will be implemented for each vibratory hammer on days when it is anticipated that multiple vibratory hammers will be used, whether at a single or multiple sites. This mitigation measure would also minimize the need for onsite coordination among project sites and components.

TABLE 21—DISTANCES TO LEVEL A HARASSMENT ISOPLETHS FOR INSTALLATION OF 42-INCH PILES BY MULTIPLE VIBRATORY HAMMERS

Pile size/type	Minutes per pile (reduced by half)	Number of piles per day	Level A harassment isopleth distance (meters)			
			Cetaceans			Pinnipeds
			LF	MF	HF	PW
42-inch Pipe, Steel	15	18	55	5	81	33

Note: *LF = Low-frequency; MF = Mid-frequency; HF = High frequency; PW = Phocids in water. Table does not stipulate the number of active vibratory hammers, as Level A effects are cumulative. The piles per day could be split between multiple hammers and not affect the size of Level A zones.*

The size of the Level B harassment zone during concurrent operation of multiple vibratory hammers will depend on the combination of sound sources due to decibel addition of multiple hammers producing continuous noise. The distances to Level B harassment isopleths during simultaneous installation of piles using two or more vibratory hammers is shown in Table 22. As noted previously, pile installation often involves numerous stops and starts of the hammer for each pile. Therefore, decibel addition is applied only when the adjacent continuous sound sources experience overlapping sound fields, which generally requires close proximity of driving locations. Furthermore, it is expected to be a rare event when three or more 30-, 36-, or 42-inch piles are being installed simultaneously with vibratory hammers.

TABLE 22—DISTANCES TO LEVEL B HARASSMENT ISOPLETHS FOR MULTIPLE HAMMER ADDITIONS

Combined SSL (dB)	Distance to Level B isopleth (meters)
164	8,577
165	10,000
166	11,659

TABLE 22—DISTANCES TO LEVEL B HARASSMENT ISOPLETHS FOR MULTIPLE HAMMER ADDITIONS—Continued

Combined SSL (dB)	Distance to Level B isopleth (meters)
167	13,594
168	15,849
169	18,478
170	21,544
171	25,119
172	29,286
173	34,145

Marine Mammal Occurrence and Take Calculation and Estimation

In this section we provide the information about the presence, density, or group dynamics of marine mammals that will inform the take calculations. We describe how the information provided above is brought together to produce a quantitative take estimate.

Humpback Whale

While humpback whales are observed near the mouth of the Chesapeake Bay and the nearshore waters of Virginia during winter and spring months, they are relatively rare in the project area. Density data for this species within the project vicinity do not exist or were not calculated because sample sizes were too small to produce reliable estimates of density. Humpback whale sighting data collected by the U.S. Navy near Naval Station Norfolk and Virginia Beach from 2012 to 2015 (Table 22) (Engelhaupt *et al.* 2014, 2015, 2016) and in the mid-Atlantic (including the Chesapeake Bay) from 2015 to 2019 (Table 23) (Aschettino *et al.* 2015, 2016, 2017a, 2018, 2019) did not produce high enough sample sizes to calculate densities, or survey data were not collected during systematic line-transect surveys. However, humpback whale densities have been calculated for populations off the coast of New Jersey, resulting in a density estimate of 0.000130 animals per square kilometer or one humpback whale within the area (off the coast of New Jersey) on any given day of the year (Whitt *et al.* 2015). In the project area, a similar density may be expected, although the project area is much smaller. Aschettino *et al.* (2018) observed and tracked two individual humpback whales in the Hampton Roads (in the James River) area of the project area and over the 5-year project period (2015–2019), tracked 12 individual humpback whales west of the CBBT (Movebank 2020). Based on these data, and the known movement of humpback whales from November through April at the mouth of the Chesapeake Bay, HRCP requested two takes every month from May to October and three to four each month from November through April for the duration of in-water pile installation and removal. NMFS concurs with the request and is authorizing a total of 183 takes of humpback whales over the 5-year Project period (Table 24). This number is increased from 172 included in the proposed rule due to the increased number of assumed pile driving days in Year 5. Only vibratory extraction is planned for Year 5 which will result in smaller PTS zones. Therefore take by Level A harassment is not expected. The largest Level A harassment zone of 6,633 meters for LF cetaceans is associated with drilling with a DTH installation of 60-inch steel pipe piles (casings) (Table 17). It is unlikely but possible that a humpback whale could enter this area and remain for a sufficient duration to incur PTS. Therefore, HRCP requested and NMFS is authorizing eight humpback whale takes by Level A harassment (2 per year except for Year 5 when there are no requests) and 35 Level B harassment takes each year (Table 24).

TABLE 23—SUMMARY OF INDIVIDUAL HUMPBACK WHALE SIGHTINGS BY MONTH FROM 2012 TO 2019 IN THE CHESAPEAKE BAY

Month	Engelhaupt surveys				Aschettino surveys					
	2012	2013	2014	2015	2015	2016	2017	2018	2019	Total
January	.....	0	0	7	56	43	106	1	30	243
February	.....	0	0	0	5	30	84	0	32	151
March	.....	.....	.....	0	0	10	7	0	1	18
April	.....	2	1	0	0	.....	.....	.....	1	4
May	.....	0	1	0	0	1	.....	.....	4	6
June	.....	.....	0	.....	.....	.....	.....	.....	.....	0
July	.....	0	0	0	.....	.....	.....	1	.....	1
August	.....	0	.....	0	.....	.....	.....	.....	.....	0
September	0	1	0	.....	.....	.....	.....	.....	.....	1
October	0	0	0	.....	.....	.....	2	.....	.....	2
November	0	0	0	.....	.....	21	8	0	.....	29
December	.....	.....	9	.....	42	30	21	11	.....	113
Total	0	3	11	7	103	135	228	13	68	568

**Source: Engelhaupt et al. 2014, 2015, 2016 (2012–2015 inshore survey data only; not dedicated humpback whale surveys); Aschettino et al. 2015, 2016, 2017a, 2018, 2019 (2015–2019). Monthly survey data from the 2019–2020 season have not been published; however, Aschettino et al. 2020b reported that during the 2019/2020 field season, which began 21 December 2019 and concluded 27 March 2020, resulted in 44 humpback whale sightings of 60 individuals.*

TABLE 24—SUMMARY OF THE ESTIMATED NUMBERS OF HUMPBACK WHALES POTENTIALLY EXPOSED TO LEVEL A AND LEVEL B HARASSMENT SOUND LEVELS PER MONTH PER YEAR

Year	Mar	Apr	May	Jun	Jul	Aug	Sept	Oct	Nov	Dec	Jan	Feb	Level A	Level B	Annual total
Year 1	4	3	2	2	2	2	2	2	4	4	4	4	2	35	37
Year 2	4	3	2	2	2	2	2	2	4	4	4	4	2	35	37
Year 3	4	3	2	2	2	2	2	2	4	4	4	4	2	35	37
Year 4	4	3	2	2	2	2	2	2	4	4	4	4	2	35	37
Year 5	4	3	2	2	2	2	2	2	4	4	5	5	0	35	35
Monthly 5-Year Total	20	15	10	10	10	10	10	10	20	20	21	21	8	175	183

Bottlenose Dolphin

The total estimated number of takes for bottlenose dolphins in the Project area was estimated using a combined approach of daily sighting rates and density methods from conventional line-transect vessel surveys near Naval Station Norfolk and adjacent areas near Virginia Beach, Virginia, from August 2012 through August 2015 (Engelhaupt *et al.* 2016).

HRCP estimated potential exposure using daily sighting data for areas west of the HRBT area and within the Core

Monitoring Area (shown in Figure 11–1 in the LOA application) and used seasonal densities of bottlenose dolphins from Engelhaupt *et al.* (2016) for areas northeast of the HRBT Project and outside the Core Monitoring Area. The Core Monitoring Area will encompass the area south of the HRBT and north of the Hampton Roads Monitor-Merrimac Memorial Bridge-Tunnel (Interstate 664) with observers positioned at key areas to monitor the entire geographic area between the bridges. This is the area that will be ensonified during most of the pile installation and removal activities. Depending on placement, the observers will be able to view west/southwest towards Batten Bay and the mouth of the Nansemond River. The largest ensonified southwest radii extend to the south into the James and Nansemond rivers, areas where marine mammal abundance is anticipated to be low and approaching zero. Towards the northeast direction, the largest of the multiple hammer zones may reach beyond the Chesapeake Bay Bridge and Tunnel. However, concurrent vibratory installation of three or more 30-, 36-, or 42-inch piles will occur infrequently.

This approach also factored in the number of days of pile installation and removal, which is estimated to be 312 days per year for 5 years. Due to the complex schedule and the inexact timeline in which parts of the project may be completed ahead of or behind schedule, trying to quantify the exact number of days certain isopleths will be active for the purposes of take estimation is infeasible. However, these calculations reflect the best available data for the areas in and around the Project and represent a conservative estimate of potential exposure based on reasonable assumptions.

Sighting rates (numbers of dolphins per day) were determined for each of the four seasons from observations located in the inshore Chesapeake Bay zone (the Chesapeake Bay waters near Naval Station Norfolk) which were used to estimate potential exposure west of the project site and within the Core Monitoring Area. Sightings per season ranged from 5 in spring to 24 in fall while no bottlenose dolphins were sighted in the winter months in this inshore area (Table 25). Note that the winter sighting total of 0 was a result of truncating winter survey data to only include sighting data within the vicinity of the project location. Bottlenose dolphin abundance was highest in the fall, (24 sightings representing 245 individuals), followed by the spring (n = 156), and summer (n = 115). This data was utilized to calculate the number of dolphins per day that could be anticipated to occur in the project area during each season and year. The surveyed width for these surveys was two nautical miles, which encompasses the areas ensonified within the Core Monitoring Area during pile installation and removal (HDR-Mott MacDonald 2020). The number of anticipated days of in-water pile installation and removal for each month was multiplied by the average daily sighting rate estimate of the number of dolphins per month that could be exposed to project noise within the Core Monitoring Area. For the majority of piles being installed and/or removed, the ensonified area is constrained by surrounding land features and does not extend out into Chesapeake Bay. For piles with constrained sound fields, this method is sufficient to calculate potential exposure.

Table 25 depicts values in the average dolphins sighted per day column that are from within the Core Monitoring Area, which is smaller and closer to the river mouth. Values in the seasonal density column (individuals per km^2) are from outside the Core Monitoring Area which is farther out in the Bay and where there are likely to be more dolphins.

TABLE 25—AVERAGE DAILY SIGHTING RATES AND SEASONAL DENSITIES OF BOTTLENOSE DOLPHINS WITHIN THE PROJECT AREA

Season	Number of sightings per season	Average number of dolphins sighted per day within core monitoring area	Seasonal density outside core monitoring area (individuals/km^2)
Spring, March–May	5	17.33	1.00
Summer, June–August	14	16.43	3.55
Fall, September–November	24	27.22	3.88
Winter, December–February	0	0.00	0.63

Source: Engelhaupt et al. 2016.

For each month and year, the average area within the Level B harassment zones and outside the Core Monitoring Area was calculated and used to estimate potential exposure east of the project site and outside the Core Monitoring Area. The weighted average area within the relevant Level B harassment zones outside the Core Monitoring Area was used to calculate potential exposure or take of bottlenose dolphin for each month. The weighting incorporated the number of piles that produce the different zone sizes ensonified by each pile size/hammer/location. The number of piles with each different zone size was multiplied by its relevant ensonified area; those were then summed and the total was divided by the total number of piles.

For example, if there are 5 piles with a 20 km^2 Level B harassment zone each and 2 piles with a 50 km^2 Level B harassment zone, the formula would be:

((5 piles * 20 km^2/pile) + (2 piles * 50 km^2/pile))/(7 piles) = weighted average of 28.6 km^2.

The sum of potential exposures within the Core Monitoring Area (daily sighting rate method) and outside the Core Monitoring Area (density method for zones that extend into Chesapeake Bay) yields the total number of potential bottlenose dolphin exposures (Table 26) for each month and year.

TABLE 26—MONTHLY AND ANNUAL ESTIMATED DOLPHIN EXPOSURES USING NUMBER/DAY FOR CORE MONITORING AREA, AND DENSITY/KM^2 FOR AREAS EXTENDING OUTSIDE THE CORE MONITORING AREA INTO CHESAPEAKE BAY

	Mar	Apr	May	Jun	Jul	Aug	Sept	Oct	Nov	Dec	Jan	Feb	Annual total
Dolphin density (#/km^2)	1	1	1	3.55	3.55	3.55	3.88	3.88	3.88	0.63	0.63	0.63	.....
Year 1 In CMA	468	451	451	427	444	427	708	708	681	0	0	0	4,765
Year 1 Out CMA	539	539	539	1,914	1,022	1,022	2,989	2,980	2,963	476	428	953	16,362
Year 2 In CMA	468	451	451	427	444	427	708	708	681	0	0	0	4,763
Year 2 Out CMA	2,297	1,304	706	2,631	2,464	1,627	1,342	6,770	6,758	1,097	1,526	1,498	30,021
Year 3 In CMA	468	451	451	427	444	427	708	708	681	0	0	0	4,764
Year 3 Out CMA	2,440	1,622	1,622	0	0	5,122	0	0	14,058	2,070	2,090	1,537	30,562
Year 4 In CMA	468	451	451	427	444	427	708	708	681	0	0	0	4,764
Year 4 Out CMA	0	0	0	0	0	0	10,146	9,287	6,009	444	0	0	25,884
Year 5 In CMA	468	451	451	427	444	427	708	708	681	0	0	0	4,763
Year 5 Out CMA	360	0	0	0	0	0	0	0	0	0	267	227	854

The largest Level A harassment isopleth is 236 m for DTH pile installation of 60-inch steel pipe piles (casings) at the South Trestle and covers an area less than 0.18 km^2. Given the daily sightings rates shown in Table 24, and the small Level A harassment zones, HRCP and NMFS do not anticipate that bottlenose dolphins will actually incur Level A harassment. However, because animals may enter into a PTS zone before being sighted, HRCP has requested authorization of Level A harassment for bottlenose dolphins as a precaution. Although NMFS does not agree that a brief sighting of a marine mammal within a Level A harassment zone calculated on the basis of accumulated energy necessarily means that the animal has experienced Level A harassment, we nevertheless propose to authorize take as requested by HRCP. HRCP assumed that approximately 1 percent of the total harassment exposures will be in the form of Level A harassment. HRCP has requested and NMFS is authorizing 127,502 exposures by Level B harassment and 1,222 exposures by Level A harassment of bottlenose dolphins divided among the 5 project construction years (127,502 total exposures − 1,222 Level A harassment takes = 126,280 Level B harassment takes). However, due to the construction schedule, these takes will not occur equally during each year of the LOA. There are no Level A harassment takes authorized for year 5. The maximum annual harassment number for dolphins is 35,326 in Year 3.

The total number of bottlenose dolphin takes by Level A and Level B harassment is expected to be split between three bottlenose dolphin stocks: Western North Atlantic Southern Migratory Coastal; Western North Atlantic Northern Migratory Coastal; and NNCES. There is insufficient data available to apportion the requested takes precisely to each of these three stocks present in the project area. Given that most of the NNCES stock are found in the Pamlico Sound Estuarine System, the Project will assume that no more than 200 of the requested takes will be from this stock during any given year. Since members of the Western North Atlantic Northern Migratory Coastal and Western North Atlantic Southern Migratory Coastal stocks are thought to occur in or near the Project area in greater numbers, HRCP will conservatively assume that no more than half of the remaining animals will belong to either of these stocks. Additionally, a subset of these takes would likely be comprised of Chesapeake Bay resident dolphins, although the size of that population is unknown. It is assumed that an animal will be taken once over a 24-hour period; however, the same individual may be taken multiple times over the duration of the project. Therefore, both the number of takes for each stock and the affected population percentages represent the maximum potential take numbers.

Harbor Porpoise

Harbor porpoises are rarely seen in the project area although they are known to occur in the coastal waters near Virginia Beach (Hayes *et al.* 2020). They have been sighted on rare occasions in the Chesapeake Bay closer to Norfolk. Density data does not exist for this species within the project area. Sighting data collected by the U.S. Navy near Naval Station Norfolk and Virginia Beach from 2012 to 2015 (Engelhaupt *et al.* 2014, 2015, 2016) did not produce high enough sample sizes to calculate densities. One group of two harbor porpoises was seen during spring 2015 (Engelhaupt *et al.* 2016).

HRCP estimated that one group of two harbor porpoises could be exposed to project-related underwater noise each month during the spring (March–May) for a total of 6 harbor porpoises takes (*i.e.,* 1 group of 2 individuals per month × 3 months per year = 6 harbor porpoises) per year.

The largest calculated Level A harassment zone for harbor porpoises extends 7,901 m from the noise source during DTH installation of 60-inch steel pipe piles (casings) at the South Trestle, for a harassment area of 102.16 km^2 (Table 17). However, HRCP has planned a 100-meter shutdown zone for harbor porpoises. HRCP has requested small numbers of take by Level A harassment for harbor porpoises during Years 1–4 of the project. While NMFS does not agree that take by Level A harassment is likely, due to the duration of time a harbor porpoise would be required to remain within the Level A zone to accumulate enough energy to experience PTS, we nevertheless propose to authorize limited take as requested by HRCP. It is anticipated that 2 individuals may enter the Level A harassment zone during pile installation and removal each spring, for a total of 2 potential Level A harassment exposures per year. Therefore, NMFS is authorizing 4 takes by Level B harassment each spring for Years 1 − 4 (6 total exposures − 2 Level A harassment takes = 4 Level B harassment takes). In Year 5, NMFS is authorizing 6 takes by Level B harassment and no takes by Level A harassment.

Harbor Seal

HRCP estimated the expected number of harbor seals in the project area using systematic, land- and vessel-based survey data for in-water and hauled-out seals collected by the U.S. Navy at the CBBT rock armor and portal islands from November 2014 through April 2019 (Rees *et al.* 2016; Jones *et al.* 2018; Jones and Rees 2020). The number of

harbor seals sighted by month from 2014 through 2019, in the Chesapeake Bay waters, in the vicinity (lower Chesapeake Bay along the CBBT) of the Project, ranged from 0 to 170 individuals Table 27. During the months of June through October (Table 27 and Table 29) harbor seals are not anticipated to be present in the Chesapeake Bay.

TABLE 27—SUMMARY OF HISTORICAL HARBOR SEAL SIGHTINGS BY MONTH FROM 2014 TO 2019

Month	2014	2015	2016	2017	2018	2019	Monthly average
January	.....	.....	33	120	170	7	82.5
February	.....	39	80	106	159	21	81
March	.....	55	61	41	0	18	43.8
April	.....	10	1	3	3	4	4.2
May	.....	3	0	0	0	.....	0.8
June	Seals not expected to be present					.....	0
July	Seals not expected to be present					.....	0
August	Seals not expected to be present					.....	0
September	Seals not expected to be present					.....	0
October	Seals not expected to be present					.....	0
November	1	0	1	0	3	.....	1.3
December	4	9	24	8	29	.....	14.8

TABLE 28—HARBOR SEAL SURVEY EFFORT, TOTAL COUNT, MAX COUNT ON A SINGLE SURVEY DAY, AND THE AVERAGE NUMBER OF SEALS OBSERVED PER SURVEY DAY AT THE CBBT SURVEY AREA

Field season	Number of survey days	Total seal count	Average daily seal count	Max daily seal count
2014–2015	11	113	10	33
2015–2016	14	187	13	39
2016–2017	22	308	14	40
2017–2018	15	340	23	45
2018–2019	10	82	8	17
Average	14.4	186	13.6	34.8

TABLE 29—SUMMARY OF THE ESTIMATED NUMBERS OF HARBOR SEALS POTENTIALLY TAKEN BY LEVEL A AND LEVEL B HARASSMENT PER MONTH PER YEAR [1]

Year	Nov	Dec	Jan	Feb	Mar	Apr	May	Level A	Level B	Annual total
Year 1	177	367	354	326	367	354	177	424	1,697	2,122
Year 2	177	367	354	326	367	354	177	424	1,697	2,122
Year 3	177	367	354	326	367	354	177	424	1,697	2,122
Year 4	177	367	354	326	367	354	177	424	1,697	2,122
Year 5	177	367	354	326	367	354	177	0	2,122	2,122
Monthly 5-Year Total	884	1,836	1,768	1,632	1,836	1,768	884	1,696	8,910	10,608

[1] Harbor seals not expected June–October.

The estimated total number of harbor seals potentially exposed to in-water noise at harassment levels is 13.6 per day (the average of the 5-year average daily harbor seal count) (Table 28) for 156 days based on a 6-day work week from mid-November to mid-May. Seals are not expected to be present in the Chesapeake Bay from June through October. It is estimated that 13.6 harbor seals could be exposed per day to Project-related underwater noise for 156 days for a total of 2,122 exposures per year.

The largest Level A harassment isopleth associated with drilling with a DTH hammer of 60-inch steel pipe piles (casings) at the South Trestle for harbor seals is 3,550 meters (Table 17) with a Level A harassment zone of 27.12 km^2. It is possible that harbor seals could enter this or other Level A harassment zones undetected. While NMFS does not believe that take of harbor seals by Level A harassment is likely due to accumulated energy that would be required to experience injury, we nevertheless propose to authorize limited take as requested by HRCP. It is anticipated that up to 20 percent of the total exposures would be at or above the Level A harassment threshold. Therefore, HRCP has requested and NMFS is authorizing 1,697 takes by Level B harassment and 424 takes by Level A harassment for project years 1–4 and 2,122 Level B harassment takes and no Level A harassment takes of harbor seals for project year 5 since only vibratory extraction will be occurring in the last year. (Table 29).

Gray Seal

Gray seals are expected to be very uncommon in the Project area. As described below, historical data indicate that approximately one gray seal has been seen per year in the Chesapeake Bay. Similar to the harbor seal, HRCP estimated the expected number of gray seals in the Project area using systematic, land- and vessel-based survey data for in-water and hauled-out seals collected by the U.S. Navy at the CBBT rock armor and portal islands from 2014 through 2019 (Rees *et al.,* 2016; Jones *et al.* 2018; Jones and Rees 2020). Gray seals are not expected to be present in the Chesapeake Bay during the months of March through December. Between 2015 and 2019 only three individual seals were observed, all in the month of February (*i.e.,* 2015, 2016 and 2018).

As a precautionary measure, HRCP assumed that there could be three gray seals taken by Level B harassment during each of the winter months (December through February). Therefore, HRCP requested and NMFS is authorizing nine gray seal takes per year for 5 years (3 gray seals per month × 3 months per year = 9 gray seals) for a total of 45 takes of gray seals (Table 30). Given the size of the Level A harassment zones and potential for a gray seal to be present within the zone for sufficient duration to incur injury, eight takes by Level A harassment have also been requested (2 during years 1–4 and 0 during year 5). NMFS concurs with this assessment and is authorizing seven takes by Level B harassment and two takes by Level A harassment per year for years 1–4 (9 takes − 2 takes by Level A harassment = 7 takes by Level B harassment) and 9 takes by Level B harassment, with no authorized takes by Level A harassment, in year 5.

Table 30 below summarizes authorized take numbers by species per project year while Table 31 describes the proposed authorized take for all the species described above as a percentage of stock abundance.

TABLE 30—ESTIMATED TAKE BY LEVEL A AND LEVEL B HARASSMENT, BY SPECIES

Species	2021		2022		2023		2024		2025	
	Level A	Level B	Level A	Level B	Level A	Level B	Level A	Level B	Level A	Level B
Humpback whale	2	35	2	35	2	35	2	35	0	37
Bottlenose dolphin	212	20,915	349	34,435	354	34,972	307	30,341	0	5,617
Harbor porpoise	2	4	2	4	2	4	2	4	0	6
Harbor seal	424	1,697	424	1,697	424	1,697	424	1,697	0	2,121
Gray seal	2	7	2	7	2	7	2	7	0	9

TABLE 31—MAXIMUM ANNUAL ESTIMATED TAKE BY LEVEL A AND LEVEL B HARASSMENT, BY SPECIES AND STOCK IN COMPARISON TO STOCK ABUNDANCE

Species	Stock	Stock abundance	Level A and Level B harassment takes	Percent of stock
Humpback Whale	Gulf of Maine	[b] 12,312	37	0.3
Bottlenose Dolphin	WNA Coastal, Northern Migratory [a]	6,639	17,561	264.5
	WNA Coastal, Southern Migratory [a]	3,751	17,561	468.2
	NNCES [c]	823	200	24.3
Harbor Porpoise	Gulf of Maine/Bay of Fundy	95,543	6	<0.01
Harbor Seal	Western North Atlantic	75,834	2,121	2.8
Gray Seal	Western North Atlantic	505,000	9	<0.01

[a] Take estimates are weighted based on calculated percentages of population for each distinct stock, assuming animals present would follow same probability of presence in the project area. Please see the Small Numbers section for additional information.
[b] West Indies DPS from Bettridge *et al.* 2015.
[c] Assumes multiple repeated takes of same individuals from small portion of each stock as well as repeated takes of Chesapeake Bay resident population (size unknown). Please see the Small Numbers section for additional information.

Mitigation

In order to issue an LOA under Section 101(a)(5)(A) of the MMPA, NMFS must set forth the permissible methods of taking pursuant to such activity, and other means of effecting the least practicable impact on such species or stock and its habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance, and on the availability of such species or stock for taking for certain subsistence uses (latter not applicable for this action). NMFS regulations require applicants for incidental take authorizations to include information about the availability and feasibility (economic and technological) of equipment, methods, and manner of conducting such activity or other means of effecting the least practicable adverse impact upon the affected species or stocks and their habitat (50 CFR 216.104(a)(11)).

In evaluating how mitigation may or may not be appropriate to ensure the least practicable adverse impact on species or stocks and their habitat, as well as subsistence uses where applicable, we carefully consider two primary factors:

(1) The manner in which, and the degree to which, the successful implementation of the measure(s) is expected to reduce impacts to marine mammals, marine mammal species or stocks, and their habitat. This considers the nature of the potential adverse impact being mitigated (likelihood, scope, range). It further considers the likelihood that the measure will be effective if implemented (probability of accomplishing the mitigating result if implemented as planned) the likelihood of effective implementation (probability implemented as planned); and

(2) The practicability of the measures for applicant implementation, which may consider such things as cost, impact on operations, and, in the case of a military readiness activity, personnel safety, practicality of implementation, and impact on the effectiveness of the military readiness activity.

In addition to the measures described later in this section, HRCP will employ the following mitigation measures:

• For in-water heavy machinery work other than pile driving, if a marine mammal comes within 10 m, operations shall cease and vessels shall reduce speed to the minimum level required to maintain steerage and safe working conditions;

• HRCP will conduct briefings between construction supervisors and crews and the marine mammal monitoring team prior to the start of all pile driving activity and when new personnel join the work, to explain responsibilities, communication procedures, marine mammal monitoring protocol, and operational procedures;

• For those marine mammals for which Level A or Level B harassment take has not been requested, in-water pile installation/removal will shut down immediately if such species are observed within or entering the Level A or Level B harassment zone; and

• If take reaches the authorized limit for an authorized species, pile installation/removal will shut down immediately if these species approach the Level A or Level B harassment zone to avoid additional take.

The following mitigation measures apply to HRCP's in-water construction activities.

Time Restriction

For pile driving, work would occur only during daylight hours, when visual monitoring of marine mammals can be conducted. Installation or removal of new piles will not commence after daylight hours.

Shutdown Zones

For all pile driving activities, HRCP will establish shutdown zones for a marine mammal species which correspond to the Level A harassment zones. The purpose of a shutdown zone is generally to define an area within which shutdown of the activity would occur upon sighting of a marine mammal (or in anticipation of an animal entering the defined area). In some instances, however, large zone sizes will make it impossible to monitor the entirety of the Level A harassment zones.

During use of a single hammer the following measures will be employed by HRCP:

• A minimum 10-meter shutdown zone will be implemented for all species, pile sizes, and hammer types to prevent direct injury of marine mammals;

• A 15-meter shutdown zone will be implemented for seals to prevent direct injury;

• A 100-meter shutdown zone will be implemented for harbor porpoises when utilizing a DTH hammer and impact hammering to prevent direct injury; and

• When the Level A harassment zone is larger than 50 meters, shutdown zones have been rounded up relative to the calculated Level A harassment zones as a precautionary measure. HRCP will also document the duration any animal spends within the Level A harassment zone;

When two or more vibratory hammers are in use HRCP will employ the following measures:

• A shutdown zone will be implemented for each species for each vibratory hammer on days when it is anticipated that multiple vibratory hammers will be used, whether at a single site or multiple sites;

• A 35-meter shutdown zone will be implemented for harbor seals and gray seals to prevent direct injury;

• An 85-meter shutdown zone will be implemented for harbor porpoise to prevent direct injury; and

• A 55-meter shutdown zone will be implemented for humpback whales to prevent direct injury;

Calculated Level A harassment zones and shutdown zones for each activity and pile size and type are depicted in Table 32 and Table 33. Note that shutdown zones in Table 33 include a 7 dB reduction due to the use of bubble curtains. Compare shutdown zones in Table 32 with Level A harassment zones contained in Tables 16, 17 and 18. Under some pile driving scenarios, the Level A harassment zones are larger than the specified shutdown zones.

TABLE 32—SHUTDOWN ZONES WITH NO ATTENUATION FOR ALL SPECIES

Method	Pile size and type	Minutes (min) per pile or strikes per pile	Number of piles installed or removed per day	Level A harassment isopleth distance (meters)			
				Cetaceans			Pinnipeds
				LF	MF	HF	
Vibratory Installation and Removal.	24-inch Pipe, Steel	15 min	6	[1] 10/55	10	[2] 14/85	[3] 15/35
	30-inch Pipe, Steel, Concrete Filled.	30 min	6	15/55 36/55		21/85 60/85	
	36-inch Pipe, Steel	2.5 min	8	10/55		13/85	
		2.5 min	16	14/55		20/85	
		25 min	1	10/55		15/85	
			2	16/55		23/85	
			3	20/55		30/85	
		30 min	2	18/55		26/85	
	42-inch Pipe, Steel	15 min	6	27/55		39/85	
	Sheet, Steel	15 min	10	11/55		16/85	
	16-inch CCA, Timber.	15 min	4	10/55		12/85	
Jetting	42-inch Pipe, Steel	15 min	1	10		10	
Down-the-Hole Installation.	30-inch Pipe, Steel, Concrete Filled.	36,000 strikes *	6	1,950	70	100	
	36-inch Pipe, Steel		2	940	34		
	60-inch Pipe, Steel		3	6,640	240		
Impact Installation	24-inch Pipe, Steel	20 strikes	6	100	10		

TABLE 32—SHUTDOWN ZONES WITH NO ATTENUATION FOR ALL SPECIES—Continued

Method	Pile size and type	Minutes (min) per pile or strikes per pile	Number of piles installed or removed per day	Level A harassment isopleth distance (meters)			
				Cetaceans			Pinnipeds
				LF	MF	HF	
	30-inch Pipe, Steel, Concrete Filled.			390	14	.....	.....
	36-inch Pipe, Steel		2	120	10	.....	.....
	36-inch Pipe, Steel		3	160	10	.....	.....
	24-inch Pipe, Concrete Square.	1,050 strikes	1	80	10	.....	.....
	54-inch Pipe, Concrete Cylinder.			420	15	.....	.....

[1] A 55-meter shutdown zone will be implemented for humpback whales during concurrent vibratory driving of two or more hammers.
[2] A 85-meter shutdown zone will be implemented for harbor porpoise during concurrent vibratory driving of two or more hammers.
[3] A 35-meter shutdown zone will be implemented for harbor seals and gray seals during concurrent vibratory driving of two or more hammers.

TABLE 33—SHUTDOWN ZONES WITH ATTENUATION FOR ALL SPECIES

Method	Pile size and type	Strikes per pile	Number of piles per day	Level A harassment isopleth distance (meters)			
				Cetaceans			Pinnipeds
				LF	MF	HF	PW
Impact Installation	24-inch Pipe, Steel	20 strikes	6	35	10	40	20
	30-inch Pipe, Steel, Concrete Filled.			135	10	160	75
	36-inch Pipe, Steel	20 strikes	2	40	10	50	25

Protected Species Observers

The placement of PSOs during all pile driving and removal activities (described in the Monitoring and Reporting section) will ensure that the entire shutdown zone is visible during pile driving and removal. Should environmental conditions deteriorate such that marine mammals within the entire shutdown zone would not be visible (*e.g.,* fog, heavy rain), pile driving and removal must be delayed until the PSO is confident marine mammals within the shutdown zone could be detected. However, if work on a pile has already begun, work is allowed to continue until that pile is installed.

Establishment of Level A and Level B Harassment Zones

HRCP will establish monitoring zones based on calculated Level A harassment isopleths associated with specific pile driving activities and scenarios. These are areas beyond the established shutdown zones in which animals could be exposed to sound levels that could result in Level A harassment in the form of PTS. HRCP will also establish and monitor Level B harassment zones which are areas where SPLs are equal to or exceed the 160 dB rms threshold for impact driving and 120 dB rms threshold during vibratory driving and DTH pile installation.

The Level A and Level B harassment monitoring zones are given in Tables 16–19.

Monitoring for Level B Harassment

HRCP will monitor the Level B harassment zones to the extent practicable, as well as Level A harassment zones extending beyond shutdown zones. HRCP will monitor at least a portion of the Level B harassment zone on all pile driving days. Monitoring zones provide utility for observing by establishing monitoring protocols for areas adjacent to the shutdown zones. Monitoring zones enable observers to be aware of and communicate the presence of marine mammals in the project area outside the shutdown zone and thus prepare for a potential cessation of activity should the animal enter the shutdown zone.

Bubble Curtains

Use of air bubble curtain systems will be implemented by HRCP during impact driving of steel piles except in situations where the water depth is less than 20 ft in depth. The use of this sound attenuation device will reduce SPLs and the size of the zones of influence for Level A harassment and Level B harassment. Bubble curtains will meet the following requirements:

- The bubble curtain must distribute air bubbles around 100 percent of the piling perimeter for the full depth of the water column;
- The lowest bubble ring shall be in contact with the mudline and/or rock bottom for the full circumference of the ring, and the weights attached to the bottom ring shall ensure 100 percent mudline and/or rock bottom contact. No parts of the ring or other objects shall prevent full mudline and/or rock bottom contact;
- The bubble curtain shall be operated such that there is proper (equal) balancing of air flow to all bubblers; and
- The applicant shall require that construction contractors train personnel in the proper balancing of air flow to the bubblers and corrections to the attenuation device to meet the performance standards. This shall occur prior to the initiation of pile driving activities.

Soft-Start

The use of soft-start procedures are believed to provide additional protection to marine mammals by providing warning and/or giving marine mammals a chance to leave the area prior to the hammer operating at full

capacity. For impact pile driving, HRCP will be required to provide an initial set of strikes from the hammer at reduced energy, with each strike followed by a 30-second waiting period. This procedure will be conducted a total of three times before impact pile driving begins. Soft start will be implemented at the start of each day's impact pile driving and at any time following cessation of impact pile driving for a period of 30 minutes or longer. Soft start is not required during vibratory or DTH pile driving activities.

If a marine mammal is present within the shutdown zone, ramping up will be delayed until the PSO has determined, through sighting, that the animal(s) has moved outside the shutdown zone. If a marine mammal is present in the Level A or Level B harassment zone, ramping up may begin and a Level A or Level B harassment take will be recorded. If a marine mammal is present in the Level A or Level B harassment zone, HRCP may elect to delay ramping up to avoid a Level A or Level B harassment take. To avoid a take by Level A or Level B harassment, ramping up will begin only after the PSO has determined, through sighting, that the animal(s) has moved outside the corresponding Level A or Level B harassment zone or 15 minutes have passed.

Pre-Activity Monitoring

Prior to the start of daily in-water construction activity, or whenever a break in pile driving of 30 minutes or longer occurs, PSOs will observe the shutdown and monitoring zones for a period of 30 minutes. The shutdown zone will be cleared when a marine mammal has not been observed within the zone for that 30-minute period. If a marine mammal is observed within the shutdown zone, a soft-start cannot proceed until the animal has left the zone or has not been observed for 15 minutes. If the Level A and Level B harassment zones have been observed for 30 minutes and non-permitted species are not present within the zone, soft start procedures can commence and work can continue even if visibility becomes impaired within the Level A or Level B harassment monitoring zones. When a marine mammal permitted for take by Level A or Level B harassment is present in the Level A or Level B harassment zone, activities may begin and Level A or Level B harassment take will be recorded as appropriate. If work ceases for more than 30 minutes, the pre-activity monitoring of both the Level B harassment and shutdown zone will commence again. Additionally, in-water construction activity must be delayed or cease, if poor environmental conditions restrict full visibility of the shut-down zone(s) until the entire shut-down zone(s) is visible.

Based on our evaluation of HRCP's planned measures, as well as other measures considered by NMFS, NMFS has determined that the planned mitigation measures provide the means of effecting the least practicable impact on the affected species or stocks and their habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance.

Monitoring and Reporting

In order to issue an LOA for an activity, section 101(a)(5)(A) of the MMPA states that NMFS must set forth requirements pertaining to the monitoring and reporting of such taking. NMFS' MMPA implementing regulations further describe the information that an applicant should provide when requesting an authorization (50 CFR 216.104 (a)(13)), including the means of accomplishing the necessary monitoring and reporting that will result in increased knowledge of the species and the level of taking or impacts on populations of marine mammals. 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.

HRCP will submit a Marine Mammal Monitoring Plan which must be approved by NMFS in advance of the start of construction.

Visual Monitoring

Marine mammal monitoring during pile driving and removal must be conducted by PSOs in a manner consistent with the following:

- Independent PSOs (*i.e.,* not construction personnel) who have no other assigned tasks during monitoring periods must be used;
- At least one PSO must have prior experience performing the duties of a PSO during construction activity pursuant to a NMFS-issued incidental take authorization;
- Other PSOs may substitute education (degree in biological science or related field) or training for experience;
- Where a team of three or more PSOs is required, a lead observer or monitoring coordinator must be designated. The lead observer must have prior experience working as a marine mammal observer during construction; and
- HRCP must submit PSO Curriculum Vitae for approval by NMFS prior to the onset of pile driving.

PSOs must have the following additional qualifications:

- Ability to conduct field observations and collect data according to assigned protocols;
- Experience or training in the field identification of marine mammals, including the identification of behaviors;
- Sufficient training, orientation, or experience with the construction operation to provide for personal safety during observations;
- Writing skills sufficient to prepare a report of observations including but not limited to the number and species of marine mammals observed; dates and times when in-water construction activities were conducted; dates, times, and reason for implementation of mitigation (or why mitigation was not implemented when required); and marine mammal behavior; and
- Ability to communicate orally, by radio or in person, with project personnel to provide real-time information on marine mammals observed in the area as necessary.

PSOs will be positioned at the best practical vantage point(s). The position(s) may vary based on construction activity and location of piles or equipment. At least one of the monitoring locations will have an

unobstructed view of the pile being driven, and an unobstructed view of the Level A shutdown and Level B harassment zones, Core Monitoring Area, as well as the 100-meter shutdown zone.

Between one and five PSOs will be stationed at locations offering the best available views of the Level A and Level B harassment monitoring zones during in-water pile installation and removal, depending on where active in-water work is taking place. It is anticipated that a PSO will observe from the North Island when in-water pile installation is occurring at the North Island and North Trestle. If the view field is adequate, Level A and Level B harassment zones may be monitored for multiple pile driving locations by the same individual PSO. Two PSOs will be located at the South Island, where they will monitor for marine mammals passing into and out of the Core Monitoring Area as well as monitor the active hammer sites. This location also provides good views to the east for monitoring when zones extend beyond the Core Monitoring Area into Chesapeake Bay. One PSO will be stationed on Willoughby Spit or a similar location that offers the best available views of the Level A and Level B harassment monitoring zones during in-water pile installation and removal within Willoughby Bay. Finally, on days when use of multiple hammers is planned and it is anticipated that the Level B harassment isopleth will encompass the CBBT, a PSO will be located on one of the CBBT Portal Islands to monitor the extended ensonified area. A central position will generally be staffed by the lead PSO, who will monitor the shutdown zones and communicate with construction personnel about shutdowns and take management. PSOs at the pile installation and removal locations will be able to see at least a radius around the construction site that exceeds the largest Level A harassment zone. PSOs will watch for marine mammals entering and leaving the James River and will alert the lead PSO of the number and species sighted, so that no unexpected marine mammals will approach the construction site. This will minimize Level A harassment take of all species.

Decibel addition is not a consideration when sound fields do not overlap at the sound sources. Willoughby Bay is largely surrounded by land, and sound will be prevented from propagating to other Project construction sites. Therefore, Willoughby Bay will be treated as an independent site with its own monitoring and shutdown zones, as well as observer requirements when construction is taking place within the bay. The Bay is relatively small and will be monitored from the construction site by one to two observers.

Reporting

HRCP would submit an annual draft report for each construction year to NMFS within 90 calendar days of the completion of marine mammal monitoring. A final annual report will be prepared and submitted to NMFS within 30 days following receipt of comments on the draft report from NMFS.

The report will detail the monitoring protocol and summarize the data recorded during monitoring. Specifically, the report must include

- Dates and times (begin and end) of all marine mammal monitoring;
- Construction activities occurring during each daily observation period, including how many and what type of piles were driven or removed and by what method (*i.e.,* impact or vibratory);
- Environmental conditions during monitoring periods (at beginning and end of PSO shift and whenever conditions change significantly), including Beaufort sea state and any other relevant weather conditions including cloud cover, fog, sun glare, and overall visibility to the horizon, and estimated observable distance (if less than the harassment zone distance); and percentages of Level A and Level B harassment zones that are not visible;
- The number of marine mammals observed, by species, relative to the pile location and if pile driving or removal was occurring at time of sighting;
- Age and sex class, if possible, of all marine mammals observed;
- PSO locations during marine mammal monitoring;
- Distances and bearings of each marine mammal observed to the pile being driven or removed for each sighting (if pile driving or removal was occurring at time of sighting);
- Description of any marine mammal behavior patterns during observation, including direction of travel and estimated time spent within the Level A and Level B harassment zones while the source was active;
- Number of marine mammals detected within the harassment zones, by species;
- Detailed information about any implementation of any mitigation triggered (*e.g.,* shutdowns and delays), a description of specific actions that ensued, and resulting behavior of the animal, if any; and
- Description of attempts to distinguish between the number of individual animals taken and the number of incidences of take, such as ability to track groups or individuals.

If no comments are received from NMFS within 30 days, the draft report will constitute the final report. If comments are received, a final report addressing NMFS comments must be submitted within 30 days after receipt of comments.

In the event that personnel involved in the construction activities discover an injured or dead marine mammal, HRCP shall report the incident to the Office of Protected Resources (OPR) (301–427–8401), NMFS and to the Greater Atlantic Region New England/Mid-Atlantic Regional Stranding Coordinator as soon as feasible. If the death or injury was clearly caused by the specified activity, HRCP must immediately cease the specified activities until NMFS is able to review the circumstances of the incident and determine what, if any, additional measures are appropriate to ensure compliance with the terms of the authorization. HRCP must not resume their activities until notified by NMFS.

The report must include the following information:

i. Time, date, and location (latitude/longitude) of the first discovery (and updated location information if known and applicable);

ii. Species identification (if known) or description of the animal(s) involved;

iii. Condition of the animal(s) (including carcass condition if the animal is dead);

iv. Observed behaviors of the animal(s), if alive;

v. If available, photographs or video footage of the animal(s); and

vi. General circumstances under which the animal was discovered.

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, this introductory discussion of our analyses applies to all of the species listed in Table 31, given that many of the anticipated effects of this project on different marine mammal stocks are expected to be relatively similar in nature. Where there are meaningful differences between species or stocks in anticipated individual responses to activities, impact of expected take on the population due to differences in population status, or impacts on habitat, they are described independently in the analysis below.

Pile driving activities associated with the project, as outlined previously, have the potential to disturb or displace marine mammals. Specifically, the specified activities may result in take, in the form of Level B harassment from underwater sounds generated by pile driving. Potential takes could occur if marine mammals are present in zones ensonified above the thresholds for Level B harassment, identified above, while activities are underway. No serious injury or mortality would be expected even in the absence of mitigation measures.

A limited number of animals could experience Level A harassment in the form of PTS if they remain within the Level A harassment zone long enough during certain impact driving scenarios. However, the number of animal affected and the degree of injury is expected to be limited to, at most, mild PTS. Furthermore, the reproduction or survival of the individual animals is not likely to affected. It is expected that, if hearing impairments occurs, most likely the affected animal would lose a few dB in its hearing sensitivity, which in most cases is not likely to affect its survival and recruitment.

HRCP's planned pile driving activities and associated impacts will occur within a limited portion of the confluence of the Chesapeake Bay area. Localized noise exposures produced by project activities may cause short-term behavioral modifications in affected cetaceans and pinnipeds. However, as described previously, the mitigation and monitoring measures are expected to further reduce the likelihood of injury as well as reduce behavioral disturbances.

Effects on individuals that are taken by Level B harassment, on the basis of reports in the literature as well as monitoring from other similar activities, will likely be limited to reactions such as increased swimming speeds, increased surfacing time, or decreased foraging (if such activity were occurring) (*e.g.,* Thorson and Reyff 2006). Individual animals, even if taken multiple times, will most likely move away from the sound source and be temporarily displaced from the areas of pile driving, although even this reaction has been observed primarily only in association with impact pile driving. The pile driving activities analyzed here are similar to, or less impactful than, numerous other construction activities conducted along the Atlantic coast, which have taken place with no known long-term adverse consequences from behavioral harassment. Furthermore, many projects similar to this one are also believed to result in multiple takes of individual animals without any documented long-term adverse effects. Level B harassment will be minimized through use of mitigation measures described herein and, if sound produced by project activities is sufficiently disturbing, animals are likely to simply avoid the area while the activity is occurring, particularly as the project is located on a busy waterfront with high amounts of vessel traffic.

As previously described, UMEs have been declared for Northeast pinnipeds (including harbor seal and gray seal) and Atlantic humpback whales. However, we do not expect authorized takes to exacerbate or compound upon these ongoing UMEs. As noted previously, no injury, serious injury, or mortality is expect or authorized, and Level A and Level B harassment takes of humpback whale, harbor seal and gray seal will be reduced to the level of least practicable adverse impact through the incorporation of the required mitigation measures. For the WNA stock of gray seal, the estimated stock abundance is 451,431 animals, including the Canadian portion of the stock (estimated 27,131 animals in the U.S. portion of the stock). Given that only 7 takes by Level B harassment and two takes by Level A harassment are authorized for this stock annually, we do not expect this authorization to exacerbate or compound upon the ongoing UME.

With regard to humpback whales, the UME does not yet provide cause for concern regarding population-level impacts. Despite the UME, the relevant population of humpback whales (the West Indies breeding population, or distinct population segment (DPS)) remains healthy. 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 DPSs with different listing statuses (81 FR 62259; September 8, 2016) pursuant to the ESA. The West Indies DPS, which consists of the whales whose breeding range includes the Atlantic margin of the Antilles from Cuba to northern Venezuela, and whose feeding range primarily includes the Gulf of Maine, eastern Canada, and western Greenland, was delisted. The status review identified harmful algal blooms, vessel collisions, and fishing gear entanglements as relevant threats for this DPS, but noted that all other threats are considered likely to have no or minor impact on population size or the growth rate of this DPS (Bettridge *et al.,* 2015). As described in Bettridge *et al.* (2015), the West Indies DPS has a substantial population size (*i.e.,* 12,312 (95 percent CI 8,688–15,954) whales in 2004–05 (Bettridge *et al.* 2003)), and appears to be experiencing consistent growth. Further, NMFS is authorizing no more than 37 takes by Level A and Level B harassment annually of humpback whale.

For the WNA stock of harbor seals, the estimated abundance is 75,834 individuals. The estimated M/SI for this stock (350) is well below the PBR (2,006). As such, authorized Level A and Level B harassment takes of harbor seal are not expected to exacerbate or compound upon the ongoing UMEs.

The project is also not expected to have significant adverse effects on affected marine mammals' habitats. The project activities will not modify existing marine mammal habitat for a significant amount of time. The activities may cause some fish to leave the area of disturbance, thus temporarily impacting marine mammals' foraging opportunities in a limited portion of the foraging range; but, because of the relatively small area of the habitat that may be affected (with no known particular importance to marine mammals), the impacts to marine mammal habitat are not expected to cause significant or long-term negative consequences. Furthermore, there are no known biologically important areas

(BIAs), ESA-designated critical habitat, rookeries, or features of special significance for foraging or reproduction.

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;
- Authorized Level A harassment would be limited and of low degree;
- The intensity of anticipated takes by Level B harassment is relatively low for all stocks;
- The number of anticipated takes is very low for humpback whale, harbor porpoise, and gray seal;
- The specified activity and associated ensonifed areas are very small relative to the overall habitat ranges of all species and do not include habitat areas of special significance;
- The lack of anticipated significant or long-term negative effects to marine mammal habitat; and
- The presumed efficacy of the mitigation measures in reducing the effects of the specified activity.

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 planned monitoring and mitigation measures, NMFS finds that the total marine mammal take from the planned 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 section 101(a)(5)(A) 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.

The maximum annual take of take of humpback whale, harbor porpoise, harbor seal, and gray seal comprises less than one-third of the best available stock abundance estimate for each of these stocks (Table 31). The maximum number of animals authorized to be taken from these stocks would be considered small relative to the relevant stock's abundances even if each estimated taking occurred to a new individual, which is an unlikely scenario.

Three bottlenose dolphin stocks could occur in the project area: WNA Coastal Northern Migratory, WNA Coastal Southern Migratory, and NNCES stocks. Therefore, the estimated takes of bottlenose dolphin by Level B harassment would likely be portioned among these stocks. Based on the stocks' respective occurrence in the area, NMFS estimated that there would be no more than 200 takes from the NNCES stock each year over the five-year period, with the remaining takes evenly split between the northern and southern migratory coastal stocks. Based on consideration of various factors described below, we have determined the maximum number of individuals taken per year would likely comprise less than one-third of the best available population abundance estimate of either coastal migratory stock.

Both the WNA Coastal Northern Migratory and WNA Coastal Southern Migratory stocks have expansive ranges and they are the only dolphin stocks thought to make broad-scale, seasonal migrations in coastal waters of the western North Atlantic. Given the large ranges associated with these stocks it is unlikely that large segments of either stock would approach the project area and enter into the Chesapeake Bay. The majority of both stocks are likely to be found widely dispersed across their respective habitat ranges and unlikely to be concentrated in or near the Chesapeake Bay.

Furthermore, the Chesapeake Bay and nearby offshore waters represent the boundaries of the ranges of each of the two coastal stocks during migration. The WNA Coastal Northern Migratory stock occurs during warm water months from coastal Virginia, including the Chesapeake Bay to Long Island, New York. The stock migrates south in late summer and fall. During cold-water months, dolphins may occur in coastal waters from Cape Lookout, North Carolina, to the North Carolina/Virginia border. During January–March, the WNA Coastal Southern Migratory stock appears to move as far south as northern Florida. From April to June, the stock moves back north to North Carolina. During the warm water months of July–August, the stock is presumed to occupy coastal waters north of Cape Lookout, North Carolina, to Assateague, Virginia, including the Chesapeake Bay. There is likely some overlap between the northern and southern migratory stocks during spring and fall migrations, but the extent of overlap is unknown.

The Chesapeake Bay and waters offshore of its mouth are located on the periphery of the migratory ranges of both coastal stocks (although during different seasons). Additionally, each of the migratory coastal stocks are likely to be located in the vicinity of the Chesapeake Bay for relatively short timeframes. Given the limited number of animals from each migratory coastal stock likely to be found at the seasonal migratory boundaries of their respective ranges, in combination with the short time periods (~two months) animals might remain at these boundaries, it is reasonable to assume that takes are likely to occur to only a small portion of either of the migratory coastal stocks.

Both migratory coastal stocks likely overlap with the NNCES stock at various times during their seasonal migrations. The NNCES stock is defined as animals that primarily occupy waters of the Pamlico Sound estuarine system (which also includes Core, Roanoke, and Albemarle sounds, and the Neuse River) during warm water months (July-August). Animals from this stock also use coastal waters (≤1 km from shore) of North Carolina from Beaufort north to Virginia Beach, Virginia, including the lower Chesapeake Bay. Comparison of dolphin photo-identification data confirmed that limited numbers of individual dolphins observed in Roanoke Sound have also been sighted in the Chesapeake Bay (Young, 2018). Like the migratory coastal dolphin stocks, the NNCES stock covers a large range. The spatial extent of most small and resident bottlenose dolphin populations is on the order of 500 km^2, while the NNCES stock occupies over 8,000 km^2 (LeBrecque *et al.,* 2015). Given this large range, it is again unlikely that a preponderance of animals from the NNCES stock would depart the North Carolina estuarine system and travel to the northern extent of the stock's range. However, recent evidence suggests that there is likely a small resident community of NNCES dolphins of indeterminate size that inhabits the Chesapeake Bay year-round (E. Patterson, NMFS, pers. comm.).

Many of the dolphin observations in the Bay are likely repeated sightings of the same individuals. The Potomac-Chesapeake Dolphin Project has observed over 1,200 unique animals since observations began in 2015. Re-sightings of the same individual can be

highly variable. Some dolphins are observed once per year, while others are highly regular with greater than 10 sightings per year (J. Mann, Potomac-Chesapeake Dolphin Project, pers. comm.). Similarly, using available photo-identification data, Engelhaupt *et al.* (2016) determined that specific individuals were often observed in close proximity to their original sighting locations and were observed multiple times in the same season or same year. Ninety-one percent of re-sighted individuals (100 of 110) in the study area were recorded less than 30 km from the initial sighting location. Multiple sightings of the same individual would considerably reduce the number of individual animals that are taken by Level B harassment. Furthermore, the existence of a resident dolphin population in the Bay would increase the percentage of dolphin takes that are actually re-sightings of the same individuals in any given year.

In summary and as described above, the following factors primarily support our determination regarding the incidental take of small numbers of the affected stocks of bottlenose dolphin:

- Potential bottlenose dolphin takes in the project area are likely to be allocated among three distinct stocks;
- Bottlenose dolphin stocks in the project area have extensive ranges and it would be unlikely to find a high percentage of any one stock concentrated in a relatively small area such as the project area or the Chesapeake Bay;
- The Chesapeake Bay represents the migratory boundary for each of the specified dolphin stocks and it would be unlikely to find a high percentage of any stock concentrated at such boundaries; and
- Many of the takes would likely be repeats of the same animals and likely from a resident population of the Chesapeake Bay.

Based on the analysis contained herein of the planned activity (including the planned mitigation and monitoring measures) and the anticipated take of marine mammals, NMFS finds that small numbers of marine mammals will be taken relative to the population size of the affected species or stocks.

Unmitigable Adverse Impact Analysis and Determination

There are no relevant subsistence uses of the affected marine mammal stocks or species implicated by this action. Therefore, NMFS has determined that the total taking of affected species or stocks would not have an unmitigable adverse impact on the availability of such species or stocks for taking for subsistence purposes.

Adaptive Management

The regulations governing the take of marine mammals incidental to HRCP construction activities would contain an adaptive management component. The reporting requirements associated with this final rule are designed to provide NMFS with monitoring data from completed projects to allow consideration of whether any changes are appropriate. The use of adaptive management allows NMFS to consider new information from different sources to determine (with input from HRCP regarding practicability) on an annual or biennial basis if mitigation or monitoring measures should be modified (including additions or deletions). Mitigation measures could be modified if new data suggests that such modifications would have a reasonable likelihood of reducing adverse effects to marine mammals and if the measures are practicable.

The following are some of the possible sources of applicable data to be considered through the adaptive management process: (1) Results from monitoring reports, as required by MMPA authorizations; (2) results from general marine mammal and sound research; and (3) any information which reveals that marine mammals may have been taken in a manner, extent, or number not authorized by these regulations or subsequent LOAs.

National Environmental Policy Act

To comply with the National Environmental Policy Act of 1969 (NEPA; 42 U.S.C. 4321 *et seq.*) and NOAA Administrative Order (NAO) 216–6A, NMFS must review the proposed action (*i.e.,* the promulgation of regulations and subsequent issuance of an incidental take authorization) with respect to potential impacts on the human environment.

This action is consistent with categories of activities identified in Categorical Exclusion B4 (Incidental harassment authorizations (IHAs) with no anticipated serious injury or mortality) of the Companion Manual for NOAA Administrative Order 216–6A, which do not individually or cumulatively have the potential for significant impacts on the quality of the human environment and for which we have not identified any extraordinary circumstances that would preclude this categorical exclusion. Accordingly, NMFS has determined that the issuance of regulations and the LAO qualifies to be categorically excluded from further NEPA review.

Endangered Species Act

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 incidental take authorizations, NMFS consults internally whenever we propose to authorize take for endangered or threatened species.

No incidental take of ESA-listed species is planned for authorization or expected to result from this activity. Therefore, NMFS has determined that formal consultation under section 7 of the ESA is not required for this action.

Classification

Pursuant to the procedures established to implement Executive Order 12866, the Office of Management and Budget has determined that this rule is not significant.

Pursuant to section 605(b) of the Regulatory Flexibility Act (RFA), the Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration at the proposed rule stage that this action will not have a significant economic impact on a substantial number of small entities. HRCP is the sole entity that would be subject to the requirements in these final regulations, and HRCP is not a small governmental jurisdiction, small organization, or small business, as defined by the RFA. No comments were received regarding this certification or on the economic impacts of the rule more generally. As a result, a regulatory flexibility analysis is not required and none has been prepared.

Notwithstanding any other provision of law, no person is required to respond to nor shall a person be subject to a penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act (PRA) unless that collection of information displays a currently valid OMB control number. This final rule contains collection-of-information requirements subject to the provisions of the PRA. These requirements have been approved by OMB under control number 0648–0151 and include applications for regulations, subsequent LOAs, and reports.

Waiver of Delay in Effective Date

The Assistant Administrator for Fisheries has determined that there is

good cause under the Administrative Procedure Act to waive the 30-day delay in the effective date (5 U.S.C. 553(d)(3)) of the final rule. HRCP is the only entity subject to the regulations, and it has informed NMFS that it requests that this final rule take effect by March 2021 in order to prevent serious impacts that would result from any stoppage in the project construction schedule. Any delay of enacting the final rule would result in either: (1) Suspension of construction on a major road transport infrastructure project at significantly increased cost; or (2) HRCP's procedural non-compliance with the MMPA (should HRCP conduct pile driving and removal without an LOA), thereby resulting in the potential for unauthorized takes of marine mammals. Due to a project design change occurring in September 2020, HRCP requested to transfer a portion of pile installation from the rulemaking/LOA application to the recently issued IHA (85 FR 48153; August 10, 2020). This resulted in the need for submitting a revised application including re-calculation of estimated take. Given this delay, NMFS was unable to accommodate the 30-day delay of effectiveness period and issue the LOA to HRCP in time to prevent a work stoppage and associated delay in the project schedule. Moreover, HRCP is ready to implement the rule immediately. For these reasons, the Assistant Administrator finds good cause to waive the 30-day delay in the effective date.

List of Subjects in 50 CFR Part 217

Administrative practice and procedure, Marine mammals, Oil and gas exploration, Penalties, Reporting and recordkeeping requirements.

Dated: March 19, 2021.

Samuel D. Rauch, III,

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

For reasons set forth in the preamble, 50 CFR part 217 is amended as follows:

PART 217—REGULATIONS GOVERNING THE TAKING AND IMPORTING OF MARINE MAMMALS

■ 1. The authority citation for part 217 continues to read as follows:

Authority: 16 U.S.C. 1361 *et seq.,* unless otherwise noted.

■ 2. Add subpart W, consisting of §§ 217.210 through 217.219, to read as follows:

Subpart W—Taking and Importing Marine Mammals Incidental to Hampton Roads Connector Partners Construction at Norfolk, Virginia

Sec.
217.210 Specified activity and geographical region.
217.211 Effective dates.
217.212 Permissible methods of taking.
217.213 Prohibitions.
217.214 Mitigation requirements.
217.215 Requirements for monitoring and reporting.
217.216 Letters of Authorization.
217.217 Renewals and modifications of Letters of Authorization.
217.218–217.219 [Reserved]

Subpart W—Taking and Importing Marine Mammals Incidental to Hampton Roads Connector Partners Construction at Norfolk, Virginia

§ 217.210 Specified activity and geographical region.

(a) Regulations in this subpart apply only to the Hampton Roads Connector Partners (HRCP) and those persons it authorizes or funds to conduct activities on its behalf for the taking of marine mammals that occurs in the areas outlined in paragraph (b) of this section and that occurs incidental to construction activities including marine structure maintenance, pile replacement, and select waterfront improvements at the Hampton Roads Bridge Tunnel Expansion Project (HRBT).

(b) The taking of marine mammals by HRCP may be authorized in a Letter of Authorization (LOA) only if it occurs at the Hampton Roads Bridge Tunnel Expansion project location in the James River between Norfolk, VA and Hampton, VA.

§ 217.211 Effective dates.

Regulations in this subpart are effective from April 2, 2021 through April 2, 2026.

§ 217.212 Permissible methods of taking.

(a) Under an LOA issued pursuant to §§ 216.106 of this chapter and 217.216, the Holder of the LOA (hereinafter ''HRCP'') may incidentally, but not intentionally, take marine mammals within the area described in § 217.210(b) by Level A and Level B harassment associated with construction activities, provided the activity is in compliance with all terms, conditions, and requirements of the regulations in this subpart and the applicable LOA.

(b) [Reserved]

§ 217.213 Prohibitions.

(a) Except for the takings contemplated in § 217.22 and authorized by an LOA issued under §§ 216.106 of this chapter and 217.216, it is unlawful for any person to do any of the following in connection with the activities described in § 217.210:

(1) Violate, or fail to comply with, the terms, conditions, and requirements of this subpart or a LOA issued under §§ 216.106 of this chapter and 217.216;

(2) Take any marine mammal not specified in such LOA;

(3) Take any marine mammal specified in such LOA in any manner that is not authorized by the LOA; or

(4) Take a marine mammal specified in such LOA if NMFS determines such taking results in more than a negligible impact on the species or stocks of such marine mammal.

(b) [Reserved]

§ 217.214 Mitigation requirements.

(a) When conducting the activities identified in § 217.210(a), the mitigation measures contained in any LOA issued under §§ 216.106 of this chapter and 217.216 must be implemented. These mitigation measures shall include but are not limited to:

(1) A copy of any issued LOA must be in the possession of HRCP, its designees, and work crew personnel operating under the authority of the issued LOA.

(2) HRCP shall conduct briefings for construction supervisors and crews, the monitoring team, and HRCP staff prior to the start of all pile driving activity, and when new personnel join the work, in order to explain responsibilities, communication procedures, the marine mammal monitoring protocol, and operational procedures.

(3) For in-water heavy machinery work other than pile driving, if a marine mammal comes within 10 meters (m), HRCP shall cease operations and reduce vessel speed to the minimum level required to maintain steerage and safe working conditions.

(4) For all pile driving activity, HRCP shall implement a minimum shutdown zone of a 10 m radius around the pile. If a marine mammal comes within or approaches the shutdown zone, such operations shall cease.

(5) For all pile driving activity, HRCP shall implement shutdown zones with radial distances as identified in a LOA issued under §§ 216.106 of this chapter and 217.216. If a marine mammal comes within or approaches the shutdown zone, such operations shall cease.

(6) HRCP shall deploy protected species observers (observers) as indicated in its Marine Mammal Monitoring Plan approved by NMFS.

(7) For all pile driving activities, between one and four observers shall be

stationed at the best vantage points practicable to monitor for marine mammals and implement shutdown/delay procedures.

(8) Monitoring shall take place from 30 minutes prior to initiation of pile driving activity through 30 minutes post-completion of pile driving activity. Pre-activity monitoring shall be conducted for 30 minutes to ensure that the shutdown zone is clear of marine mammals, and pile driving may commence when observers have declared the shutdown zone clear of marine mammals. In the event of a delay or shutdown of activity resulting from marine mammals in the shutdown zone, animals shall be allowed to remain in the shutdown zone (*i.e.,* must leave of their own volition) and their behavior shall be monitored and documented. If a marine mammal is observed within the shutdown zone, a soft-start cannot proceed until the animal has left the zone or has not been observed for 15 minutes. Monitoring shall occur throughout the time required to drive a pile. If in-water pile installation and removal work ceases for more than 30 minutes, the pre-activity monitoring of the shutdown zones must commence. A determination that the shutdown zone is clear must be made during a period of good visibility (*i.e.,* the entire shutdown zone and surrounding waters must be visible to the naked eye).

(9) If a marine mammal approaches or enters the shutdown zone, all pile driving activities at that location shall be halted. In the event of a delay, the activity may not commence or resume until either the animal has voluntarily left and been visually confirmed beyond the shutdown zone or fifteen minutes have passed without re-detection of the animal.

(10) Pile driving activity must be halted upon observation of either a species for which incidental take is not authorized or a species for which incidental take has been authorized but the authorized number of takes has been met, entering or within the harassment zone.

(11) Should environmental conditions deteriorate (*e.g.,* fog, heavy rain) such that observers are unable to visibly detect marine mammals within the entire shutdown zone then HRCP shall delay pile driving and removal until observers are confident marine mammals within the shutdown zone could be detected.

(12) Monitoring shall be conducted by trained observers, who shall have no other assigned tasks during monitoring periods. Trained observers shall be placed at the best vantage point(s) practicable to monitor for marine mammals and implement shutdown or delay procedures when applicable through communication with the equipment operator. HRCP shall adhere to the following additional observer qualifications:

(i) Independent observers are required;

(ii) At least one observer must have prior experience working as an observer;

(iii) Other observers may substitute education (degree in biological science or related field) or training for experience;

(iv) Where a team of three or more observers are required, one observer shall be designated as lead observer or monitoring coordinator. The lead observer must have prior experience working as an observer; and

(v) HRCP must submit PSO CVs for approval by NMFS prior to the beginning of pile driving and drilling.

(13) HRCP shall use soft start techniques for impact pile driving. Soft start for impact driving requires HRCP and those persons it authorizes to provide an initial set of three strikes at reduced energy, followed by a thirty-second waiting period, then two subsequent reduced energy three-strike sets. Soft start shall be implemented at the start of each day's impact pile driving and at any time following cessation of impact pile driving for a period of thirty minutes or longer.

(14) HRCP shall employ bubble curtain systems during impact driving of steel piles except under conditions where the water depth is less than 20 feet in depth. Bubble curtains must meet the following requirements:

(i) The bubble curtain must distribute air bubbles around 100 percent of the piling perimeter for the full depth of the water column.

(ii) The lowest bubble ring must be in contact with the mudline and/or rock bottom for the full circumference of the ring, and the weights attached to the bottom ring shall ensure 100 percent mudline and/or rock bottom contact. No parts of the ring or other objects shall prevent full mudline and/or rock bottom contact.

(iii) The bubble curtain must be operated such that there is proper (equal) balancing of air flow to all bubblers.

(iv) HRCP shall require that construction contractors train personnel in the proper balancing of air flow to the bubblers and corrections to the attenuation device to meet the performance standards specified in an LOA issued under §§ 216.106 of this chapter and § 217.216. This shall occur prior to the initiation of pile driving activities.

(b) [Reserved]

§ 217.215 Requirements for monitoring and reporting.

(a) HRCP shall submit a Marine Mammal Monitoring Plan to NMFS for approval in advance of construction.

(b) HRCP shall deploy observers as indicated in its approved Marine Mammal Monitoring Plan.

(c) Observers shall be trained in marine mammal identification and behaviors. Observers shall have no other construction-related tasks while conducting monitoring.

(d) HRCP shall monitor the Level B harassment zones and Level A harassment zones extending beyond the designated shutdown zones to the extent practicable.

(e) HRCP shall monitor the shutdown zones during all pile driving and removal activities.

(f) HRCP shall submit a draft annual monitoring report to NMFS within 90 work days of the completion of annual marine mammal monitoring. The report must detail the monitoring protocol and summarize the data recorded during monitoring. If no comments are received from NMFS within 30 days, the draft report will constitute the final report. If comments are received, a final report addressing NMFS comments must be submitted within 30 days after receipt of comments. Specifically, the report must include:

(1) Dates and times (begin and end) of all marine mammal monitoring;

(2) Construction activities occurring during each daily observation period, including how many and what type of piles were driven or removed and by what method (*i.e.,* impact or vibratory);

(3) Environmental conditions during monitoring periods (at beginning and end of PSO shift and whenever conditions change significantly), including Beaufort sea state and any other relevant weather conditions including cloud cover, fog, sun glare, and overall visibility to the horizon, estimated observable distance (if less than the harassment zone distance), and percentages of Level A and Level B harassment zones that are not visible;

(4) The number of marine mammals observed, by species, relative to the pile location and if pile driving or removal was occurring at time of sighting;

(5) Age and sex class, if possible, of all marine mammals observed;

(6) PSO locations during marine mammal monitoring;

(7) Distances and bearings of each marine mammal observed to the pile being driven or removed for each sighting (if pile driving or removal was occurring at time of sighting);

(8) Description of any marine mammal behavior patterns during observation, including direction of travel and estimated time spent within the Level A and Level B harassment zones while the source was active;

(9) Number of marine mammals detected within the harassment zones, by species;

(10) Detailed information about any implementation of any mitigation triggered (*e.g.,* shutdowns and delays), a description of specific actions that ensued, and resulting behavior of the animal, if any; and

(11) Description of attempts to distinguish between the number of individual animals taken and the number of incidences of take, such as ability to track groups or individuals;

(g) In the event that personnel involved in the construction activities discover an injured or dead marine mammal, HRCP shall report the incident to the Office of Protected Resources (OPR) (301–427–8401), NMFS and to the Greater Atlantic Region New England/Mid-Atlantic Regional Stranding Coordinator as soon as feasible. If the death or injury was clearly caused by the specified activity, HRCP must immediately cease the specified activities until NMFS is able to review the circumstances of the incident and determine what, if any, additional measures are appropriate to ensure compliance with the terms of the authorization. HRCP must not resume their activities until notified by NMFS. The report must include the following information:

(1) Time, date, and location (latitude/longitude) of the first discovery (and updated location information if known and applicable);

(2) Species identification (if known) or description of the animal(s) involved;

(3) Condition of the animal(s) (including carcass condition if the animal is dead);

(4) Observed behaviors of the animal(s), if alive;

(5) If available, photographs or video footage of the animal(s); and

(6) General circumstances under which the animal was discovered.

§ 217.216 Letters of Authorization.

(a) To incidentally take marine mammals pursuant to these regulations, HRCP must apply for and obtain an LOA.

(b) An LOA, unless suspended or revoked, may be effective for a period of time not to exceed the expiration date of these regulations.

(c) If an LOA expires prior to the expiration date of these regulations, HRCP may apply for and obtain a renewal of the LOA.

(d) In the event of projected changes to the activity or to mitigation and monitoring measures required by an LOA, HRCP must apply for and obtain a modification of the LOA as described in § 217.217.

(e) The LOA shall set forth the following information:

(1) Permissible methods of incidental taking;

(2) Means of effecting the least practicable adverse impact (*i.e.,* mitigation) on the species, its habitat, and on the availability of the species for subsistence uses; and

(3) Requirements for monitoring and reporting.

(f) Issuance of the LOA shall be based on a determination that the level of taking will be consistent with the findings made for the total taking allowable under these regulations.

(g) Notice of issuance or denial of an LOA shall be published in the **Federal Register** within thirty days of a determination.

§ 217.217 Renewals and modifications of Letters of Authorization.

(a) An LOA issued under §§ 216.106 of this chapter and 217.216 for the activity identified in § 217.210(a) shall be renewed or modified upon request by the applicant, provided that:

(1) The planned specified activity and mitigation, monitoring, and reporting measures, as well as the anticipated impacts, are the same as those described and analyzed for these regulations; and

(2) NMFS determines that the mitigation, monitoring, and reporting measures required by the previous LOA under these regulations were implemented.

(b) For LOA modification or renewal requests by the applicant that include changes to the activity or the mitigation, monitoring, or reporting that do not change the findings made for the regulations or result in no more than a minor change in the total estimated number of takes (or distribution by species or years), NMFS may publish a notice of proposed LOA in the **Federal Register**, including the associated analysis of the change, and solicit public comment before issuing the LOA.

(c) An LOA issued under §§ 216.106 of this chapter and 217.216 for the activity identified in § 217.210(a) may be modified by NMFS under the following circumstances:

(1) HRCP may modify (including augment) the existing mitigation, monitoring, or reporting measures (after consulting with NMFS regarding the practicability of the modifications) if doing so creates a reasonable likelihood of more effectively accomplishing the goals of the mitigation and monitoring set forth in the preamble for these regulations;

(i) Possible sources of data that could contribute to the decision to modify the mitigation, monitoring, or reporting measures in a LOA:

(A) Results from HRCP's monitoring from previous years;

(B) Results from other marine mammal and/or sound research or studies; and

(C) Any information that reveals marine mammals may have been taken in a manner, extent or number not authorized by these regulations or subsequent LOAs;

(ii) If, through adaptive management, the modifications to the mitigation, monitoring, or reporting measures are substantial, NMFS will publish a notice of proposed LOA in the **Federal Register** and solicit public comment.

(2) If NMFS determines that an emergency exists that poses a significant risk to the well-being of the species or stocks of marine mammals specified in a LOA issued pursuant to §§ 216.106 of this chapter and 217.216, a LOA may be modified without prior notice or opportunity for public comment. Notice would be published in the **Federal Register** within thirty days of the action.

§ 217.218–§ 217.219 [Reserved]

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