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Contents

Federal Register

Vol. 86, No. 106

Friday, June 4, 2021

Agriculture Department
See Forest Service
See The U.S. Codex Office

Centers for Disease Control and Prevention
NOTICES
Meetings:
Board of Scientific Counselors, National Center for Injury Prevention and Control, 30048–30049
National Firefighter Registry Subcommittee, 30047–30048

Centers for Medicare & Medicaid Services
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 30049–30050

Children and Families Administration
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Head Start REACH: Strengthening Outreach, Recruitment, and Engagement Approaches with Families, 30050–30051

Civil Rights Commission
NOTICES
Meetings:
New York Advisory Committee, 29997–29998

Commerce Department
See Foreign-Trade Zones Board
See International Trade Administration
See National Institute of Standards and Technology
See National Oceanic and Atmospheric Administration

Committee for Purchase From People Who Are Blind or Severely Disabled
NOTICES
Procurement List; Additions and Deletions, 30034–30036

Community Living Administration
NOTICES
Single-Source Supplements:
Current Senior Medicare Patrol State Grantees, 30051–30053

Disability Employment Policy Office
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Research to Support the Partnership on Inclusive Apprenticeship, 30069–30070

Energy Department
See Federal Energy Regulatory Commission
RULES
Procedures for the Issuance of Guidance Documents; Withdrawal, 29932–29937
PROPOSED RULES
Energy Conservation Program:
Energy Conservation Standards for Consumer Products/Certain Commercial and Industrial Equipment; Early Assessment Review; Ceiling Fan Light Kits, 29954–29964
Energy Conservation Standards for Consumer Products; Early Assessment Review; Dehumidifiers, 29964–29967

Environmental Protection Agency
RULES
Air Quality State Implementation Plans; Approvals and Promulgations:
Florida; Maintenance Plan Update for the Hillsborough County Lead Area, 29949–29951
Revised Cross-State Air Pollution Rule Update for the 2008 Ozone NAAQS; Correction, 29948–29949
NOTICES
Environmental Impact Statements; Availability, etc., 30040
Privacy Act; Systems of Records, 30040–30047

Federal Aviation Administration
RULES
Airspace Designations and Reporting Points:
Vicinity of Santa Rosa, CA, 29946–29948
Airworthiness Directives:
Airbus SAS Airplanes, 29942–29946
De Havilland Aircraft of Canada Limited (Type Certificate Previously Held by Bombardier, Inc.) Airplanes, 29939–29942
PROPOSED RULES
Airspace Designations and Reporting Points:
Harrisburg International Airport, PA; Meeting, 29969
Kodiak, AK, 29967–29969
NOTICES
Petition for Exemption; Summary:
MIL2ATP, Inc., 30075

Federal Communications Commission
RULES
Call Authentication Trust Anchor, 29952–29953
PROPOSED RULES
Video Relay Service Compensation, 29969–29975

Federal Emergency Management Agency
NOTICES
Meetings:
Implement Pandemic Response Voluntary Agreement under the Defense Production Act, 30063–30064

Federal Energy Regulatory Commission
NOTICES
Application:
Alabama Power Co., 30037–30038
Combined Filings, 30036, 30038–30040
Late Intervention Denial:
WBI Energy Transmission, Inc., 30038
Meetings:
Increasing Market and Planning Efficiency through Improved Software; Technical Conference, 30036–30037

Federal Reserve System
RULES
Reserve Requirements of Depository Institutions; Regulation D, 29937–29939

Federal Transit Administration
NOTICES
Environmental Impact Statements; Availability, etc.:
Port Authority Bus Terminal Replacement Project, City of New York, New York County, NY, 30075–30078

Fish and Wildlife Service
PROPOSED RULES
Endangered and Threatened Species:
Finding on a Petition to List the Tiehm's Buckwheat as Threatened or Endangered, 29975–29977

Food and Drug Administration
NOTICES
Guidance:
Definitions of Suspect Product and Illegitimate Product for Verification Obligations Under the Drug Supply Chain Security Act, 30056–30058
Drug Supply Chain Security Act Implementation: Identification of Suspect Product and Notification, 30054–30056
Enhanced Drug Distribution Security at the Package Level under the Drug Supply Chain Security Act, 30053–30054
Product Identifiers Under the Drug Supply Chain Security Act: Questions and Answers, 30058–30059

Foreign-Trade Zones Board
NOTICES
Authorization of Production Activity:
Bauer Manufacturing, LLC, Foreign-Trade Zone 265, Conroe, TX, 29998

Forest Service
NOTICES
Guidance:
Forest Service Handbook; Title Claims, Sales, and Grants Handbook; Sales, 29997
Forest Service Manual 1800, Chapter 20, 29996

Health and Human Services Department
See Centers for Disease Control and Prevention
See Centers for Medicare & Medicaid Services
See Children and Families Administration
See Community Living Administration
See Food and Drug Administration
See National Institutes of Health
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 30059–30060

Homeland Security Department
See Federal Emergency Management Agency
See Transportation Security Administration

Interior Department
See Fish and Wildlife Service
See Land Management Bureau
See Ocean Energy Management Bureau

International Trade Administration
NOTICES
Antidumping or Countervailing Duty Investigations, Orders, or Reviews:
Certain Uncoated Paper from Brazil, 30000–30002
Certain Uncoated Paper from Portugal, 30002–30004
Prestressed Concrete Steel Wire Strand from Indonesia, Italy, Malaysia, South Africa, Spain, Tunisia, and Ukraine, 29998–30000

Labor Department
See Disability Employment Policy Office
See Occupational Safety and Health Administration

Land Management Bureau
NOTICES
Environmental Impact Statements; Availability, etc.:
SunZia Southwest Transmission Project, New Mexico, 30066–30068

National Institute of Standards and Technology
NOTICES
Meetings:
Judges Panel of the Malcolm Baldrige National Quality Award, 30004

National Institutes of Health
NOTICES
Meetings:
Center for Scientific Review, 30061–30062
Diabetes Mellitus Interagency Coordinating Committee, 30062
National Cancer Institute, 30062–30063
National Institute of Allergy and Infectious Diseases, 30060
National Institute on Alcohol Abuse and Alcoholism, 30060–30061

National Oceanic and Atmospheric Administration
PROPOSED RULES
Fisheries of the Exclusive Economic Zone off Alaska:
Cook Inlet Salmon; Amendment 14, 29977–29986
Takes of Marine Mammals Incidental to Specified Activities:
Northeast Fisheries Science Center Fisheries and Ecosystem Research, 30080–30129
NOTICES
Environmental Impact Statements; Availability, etc.:
Monterey Bay Regional Water Project Desalination Facility; Withdrawal, 30034
Meetings:
Schedules for Atlantic Shark Identification Workshops and Protected Species Safe Handling, Release, and Identification Workshops, 30005–30006
Takes of Marine Mammals Incidental to Specified Activities:
Geophysical Survey of the Queen Charlotte Fault, 30006–30034

Occupational Safety and Health Administration
NOTICES
Meetings:
National Advisory Committee on Occupational Safety and Health, 30070–30071

Ocean Energy Management Bureau
NOTICES
Environmental Impact Statements; Availability, etc.:
Revolution Wind LLC's Proposed Wind Energy Facility Offshore Rhode Island; Reopening of Comment Period and Corrections, 30068–30069

Office of the Special Counsel
RULES
Supplemental Standards of Ethical Conduct for Employees, 29931–29932

Postal Regulatory Commission
NOTICES
Order:
Price Adjustments and Classification Changes for Market Dominant Products, 30071–30072

Presidential Documents
PROCLAMATIONS
Special Observances:
Day of Remembrance: 100 Years After the 1921 Tulsa Race Massacre (Proc. 10219), 29929–29930

Securities and Exchange Commission
NOTICES
Applications:
Deregistration under the Investment Company Act, 30072–30073

Small Business Administration
NOTICES
Disaster Declaration:
Texas, 30073
Major Disaster Declaration:
Georgia; Amendment No. 1; Public Assistance Only, 30073–30074
Kentucky, 30073

State Department
NOTICES
Culturally Significant Objects Imported for Exhibition:
Monet at Etretat Exhibition, 30074
Statutory Debarment under the Arms Export Control Act and the International Traffic in Arms Regulations:
Bureau of Political-Military Affairs, 30074–30075

The U.S. Codex Office
NOTICES
International Standard-Setting Activities, 29987–29996

Transportation Department
See Federal Aviation Administration
See Federal Transit Administration

Transportation Security Administration
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Baseline Assessment for Security Enhancement Program, 30065–30066
Department of Homeland Security Traveler Redress Inquiry Program, 30064–30065

Separate Parts In This Issue

Part II
Commerce Department, National Oceanic and Atmospheric Administration, 30080–30129

Reader Aids

Consult the Reader Aids section at the end of this issue for phone numbers, online resources, finding aids, and notice of recently enacted public laws.

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CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

3 CFR

Proclamations:

10219 29929

5 CFR

Ch. CII 29931

10 CFR

1061 29932

Proposed Rules:

430 (2 documents) 29954, 29964

12 CFR

204 29937

14 CFR

39 (3 documents) 29939, 29942, 29944

71 29946

Proposed Rules:

71 (2 documents) 29967, 29969

40 CFR

51 29948

52 (2 documents) 29948, 29949

78 29948

97 29948

47 CFR

64 29952

Proposed Rules:

64 29969

50 CFR

Proposed Rules:

17 29975

219 30080

679 29977

Federal Register
Vol. 86, No. 106
Friday, June 4, 2021

Presidential Documents

Title 3—

The President

Proclamation 10219 of May 31, 2021

Day of Remembrance: 100 Years After the 1921 Tulsa Race Massacre

By the President of the United States of America

A Proclamation

One hundred years ago, a violent white supremacist mob raided, firebombed, and destroyed approximately 35 square blocks of the thriving Black neighborhood of Greenwood in Tulsa, Oklahoma. Families and children were murdered in cold blood. Homes, businesses, and churches were burned. In all, as many as 300 Black Americans were killed, and nearly 10,000 were left destitute and homeless. Today, on this solemn centennial of the Tulsa Race Massacre, I call on the American people to reflect on the deep roots of racial terror in our Nation and recommit to the work of rooting out systemic racism across our country.

Before the Tulsa Race Massacre, Greenwood was a thriving Black community that had grown into a proud economic and cultural hub. At its center was Greenwood Avenue, commonly known as Black Wall Street. Many of Greenwood's 10,000 residents were Black sharecroppers who fled racial violence after the Civil War.

In the decades following the Civil War and Reconstruction, Greenwood became a place where Black Americans were able to make a new start and secure economic progress despite the continued pain of institutional and overt racism. The community was home to a growing number of prominent Black entrepreneurs as well as working-class Black families who shared a commitment to social activism and economic opportunity. As Greenwood grew, Greenwood Avenue teemed with successful Black-owned businesses, including restaurants, grocery stores, hotels, and offices for doctors, lawyers, and dentists. The community also maintained its own school system, post office, a savings and loan institution, hospital, and bus and taxi service.

Despite rising Jim Crow systems and the reemergence of the Ku Klux Klan, Greenwood's economic prosperity grew, as did its citizens' demands for equal rights. This made the community a source of pride for many Black Americans. It also made the neighborhood and its families a target of white supremacists. In 2 days, a violent mob tore down the hard-fought success of Black Wall Street that had taken more than a decade to build.

In the years that followed, the destruction caused by the mob was followed by laws and policies that made recovery nearly impossible. In the aftermath of the attack, local ordinances were passed requiring new construction standards that were prohibitively expensive, meaning many Black families could not rebuild. Later, Greenwood was redlined by mortgage companies and deemed ''hazardous'' by the Federal Government so that Black homeowners could not access home loans or credit on equal terms. And in later decades, Federal investment, including Federal highway construction, tore down and cut off parts of the community. The attack on Black families and Black wealth in Greenwood persisted across generations.

The Federal Government must reckon with and acknowledge the role that it has played in stripping wealth and opportunity from Black communities. The Biden-Harris Administration is committed to acknowledging the role

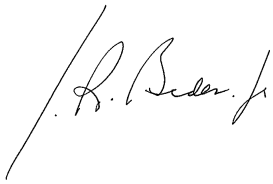
Federal policy played in Greenwood and other Black communities and addressing longstanding racial inequities through historic investments in the economic security of children and families, programs to provide capital for small businesses in economically disadvantaged areas, including minority-owned businesses, and ensuring that infrastructure projects increase opportunity, advance racial equity and environmental justice, and promote affordable access.

A century later, the fear and pain from the devastation of Greenwood is still felt. As Viola Fletcher, a 107-year-old survivor of the Tulsa Race Massacre courageously testified before the Congress recently, ''I will never forget the violence of the white mob when we left our home. I still see Black men being shot, Black bodies lying in the street. I still smell smoke and see fire. I still see Black businesses being burned. I still hear airplanes flying overhead. I hear the screams. I have lived through the massacre every day. Our country may forget this history, but I cannot.''

With this proclamation, I commit to the survivors of the Tulsa Race Massacre, including Viola Fletcher, Hughes Van Ellis, and Lessie Benningfield Randle, the descendants of victims, and to this Nation that we will never forget. We honor the legacy of the Greenwood community, and of Black Wall Street, by reaffirming our commitment to advance racial justice through the whole of our government, and working to root out systemic racism from our laws, our policies, and our hearts.

NOW, THEREFORE, I, JOSEPH R. BIDEN JR., President of the United States of America, by virtue of the authority vested in me by the Constitution and the laws of the United States, do hereby proclaim May 31, 2021, a Day of Remembrance: 100 Years After The 1921 Tulsa Race Massacre. I call upon the people of the United States to commemorate the tremendous loss of life and security that occurred over those 2 days in 1921, to celebrate the bravery and resilience of those who survived and sought to rebuild their lives again, and commit together to eradicate systemic racism and help to rebuild communities and lives that have been destroyed by it.

IN WITNESS WHEREOF, I have hereunto set my hand this thirty-first day of May, in the year of our Lord two thousand twenty-one, and of the Independence of the United States of America the two hundred and forty-fifth.



[FR Doc. 2021–11874

Filed 6–3–21; 8:45 am]

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Rules and Regulations

Federal Register
Vol. 86, No. 106
Friday, June 4, 2021

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

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

OFFICE OF SPECIAL COUNSEL

5 CFR Chapter CII

RIN 3209–AA53

Supplemental Standards of Ethical Conduct for Employees of the U.S. Office of Special Counsel

AGENCY: U.S. Office of Special Counsel (OSC).

ACTION: Final rule.

SUMMARY: The U.S. Office of Special Counsel, with the concurrence of the U.S. Office of Government Ethics (OGE), is finalizing a regulation for OSC employees that supplements the executive branch Standards of Ethical Conduct issued by OGE. The supplemental regulation requires OSC employees to seek prior approval before engaging in outside employment or activity.

DATES: This final rule is effective June 4, 2021.

FOR FURTHER INFORMATION CONTACT: Heidi R. Morrison, Alternate Designated Agency Ethics Official, U.S. Office of Special Counsel, by email at *frliaison@osc.gov* or by telephone at (202) 804–7000.

SUPPLEMENTARY INFORMATION:

I. Background

On July 24, 2020, OSC, with OGE's concurrence, published a proposed rule in the **Federal Register**, 85 FR 44789, proposing to adopt agency specific supplemental regulations requiring OSC employees to obtain prior approval before engaging in outside employment or activity. The proposed rule provided a 30-day comment period, which ended on August 24, 2020. During the comment period OSC received one comment from a member of the public.

II. Analysis of Comment Received

The comment received strongly supported robust regulations requiring OSC employees be held ''to the highest ethical standards,'' but did not otherwise address the substance of or suggest changes to the proposed rule. Therefore, for the reasons detailed in the preamble of the proposed rule, OSC, with the concurrence of OGE, is issuing this rule in final without changes.

III. Matters of Regulatory Procedure

Administrative Procedure Act (APA)

This action is taken under the Special Counsel's authority at 5 U.S.C. 1212(e) to publish regulations in the **Federal Register**.

Executive Order 12866 and Executive Order 13771

This rule is not a significant rule for purposes of Executive Order 12866 and has not been reviewed by the Office of Management and Budget. This rule is not subject to the requirements of Executive Order 13771 because this rule results in no more than de minimis costs.

Regulatory Flexibility Act (RFA)

As required by the RFA, OSC certifies that this regulation will not have a significant economic impact on a substantial number of small entities.

National Environmental Policy Act (NEPA)

This rule will have no physical impact upon the environment and therefore will not require any further review under the NEPA.

Congressional Review Act (CRA)

This rule relates to agency personnel and does not substantially affect the rights or obligations of non-agency parties. Therefore, it does not meet the definition of a ''rule'' at 5 U.S.C. 804 and is not subject to the procedures of the CRA.

Paperwork Reduction Act (PRA)

OSC has determined that the PRA does not apply because this regulation does not contain any information collection requirements that require the approval of the Office of Management and Budget.

List of Subjects in 5 CFR Part 10201

Conflict of interests, Government employees.

Approved: May 27, 2021.

Travis G. Millsaps,

Deputy Special Counsel for Public Policy, U.S. Office of Special Counsel.

Emory Rounds,

Director, U.S. Office of Government Ethics.

■ For the reasons set forth in the preamble, the U.S. Office of Special Counsel, with the concurrence of OGE, is amending title 5 of the Code of Federal Regulations by adding a new chapter CII, consisting of part 10201, to read as follows:

Title 5—Administrative Personnel

Chapter CII—U.S. Office of Special Counsel

PART 10201—SUPPLEMENTAL STANDARDS OF ETHICAL CONDUCT FOR EMPLOYEES OF THE U.S. OFFICE OF SPECIAL COUNSEL

Sec.
10201.101 General.
10201.102 Prior approval for outside employment or activity.

Authority: 5 U.S.C. 1212(e); 5 U.S.C. 7301; 5 U.S.C. App. (Ethics in Government Act of 1978); E.O. 12674, 54 FR 15159, 3 CFR, 1989 Comp., p. 215, as modified by E.O. 12731, 55 FR 42547, 3 CFR, 1990 Comp., p. 306; 5 CFR 2635.105, 2635.803.

§ 10201.101 General.

(a) *Purpose.* In accordance with 5 CFR 2635.105, the regulations in this part apply to employees of the U.S. Office of Special Counsel (OSC) and supplement the Standards of Ethical Conduct for Employees of the Executive Branch at 5 CFR part 2635.

(b) *Other regulations, guidance, and procedures.* In addition to the standards in 5 CFR part 2635 and this part, all OSC employees are required to comply with implementing guidance and procedures issued by OSC in accordance with 5 CFR 2635.105(c). OSC employees are also subject to all other government-wide regulations concerning executive branch ethics including without limitation, financial disclosure regulations contained in 5 CFR part 2634, regulations concerning financial interests contained in 5 CFR part 2640, post-employment conflict of interest restrictions contained in 5 CFR part 2641, outside earned income limitations and employment and affiliation restrictions applicable to certain noncareer employees contained in 5 CFR part 2636, and the regulations concerning executive branch employee

responsibilities and conduct contained in 5 CFR part 735.

§ 10201.102 Prior approval for outside employment or activity.

(a) *General requirement.* Before engaging in any outside employment or activity, whether or not for compensation, an OSC employee must obtain written approval from the Designated Agency Ethics Official (DAEO) or the Alternate Designated Agency Ethics Official (ADAEO), except to the extent that OSC has issued an internal instruction pursuant to paragraph (d) of this section exempting certain employment or activities from this requirement.

Note 1 to paragraph (a). 18 U.S.C. 203(d) and 205(e) require special approval for certain representational activities in claims against the Federal Government and other matters affecting the interests of the government.

(b) *Definition of ''outside employment or activity''.* For purposes of this section, ''outside employment or activity'' means any form of non-Federal employment or business relationship involving the provision of services by the employee, whether for compensation or not for compensation. It includes, but is not limited to, serving as an officer, director, employee, agent, attorney, consultant, contractor, general partner, trustee, or teacher. The definition does not include participation in the activities of a nonprofit charitable, religious, professional, social, fraternal, educational, recreational, public service, or civic organization unless such activities involve the provision of professional services or advice, or are for compensation other than reimbursement of expenses.

Note 2 to paragraph (b). Employees who wish to engage in compensated speaking or writing in a personal capacity are subject to, among other things, the provisions of 5 CFR 2635.703 (concerning use of nonpublic information) and 5 CFR 2635.807 (concerning receipt of compensation for teaching, speaking, and writing related to one's duties), and are encouraged to seek guidance from an agency ethics official before engaging in such activities. Certain covered non-career employees are also subject to further restrictions on receipt of outside compensation pursuant to section 502 of the Ethics in Government Act (5 U.S.C. app.). In addition, OSC attorneys should consult their applicable state bar rules of professional conduct.

(c) *Standard for approval.* Approval shall be granted by the DAEO or ADAEO upon a determination that the outside employment or activity is not expected to involve conduct prohibited by statute or Federal regulation, including 5 CFR part 2635.

(d) *Implementation guidance.* The DAEO or ADAEO may issue internal instructions governing the submission of requests for approval of outside employment or activity. The instructions may exempt categories of employment or activities from the prior approval requirement of this section based on a determination that those categories generally would be approved and are not likely to involve prohibited conduct or create an appearance of lack of impartiality.

[FR Doc. 2021–11720 Filed 6–3–21; 8:45 am]

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DEPARTMENT OF ENERGY

10 CFR Part 1061

RIN 1990–AA50

Procedures for the Issuance of Guidance Documents

AGENCY: Office of General Counsel, Department of Energy.

ACTION: Final rule; withdrawal.

SUMMARY: In accordance with an Executive Order issued by the President on January 20, 2021, and for the reasons explained in the preamble of this final rule, the Department of Energy (DOE or ''the Department'') withdraws the Department's final rule on guidance implementing the Executive Order ''Promoting the Rule of Law Through Improved Agency Guidance Documents.''

DATES: As of June 4, 2021, the final rule published January 6, 2021 at 86 FR 451, effective February 5, 2021, delayed February 2, 2021, until March 21, 2021, at 86 FR 7799, and delayed March 19, 2021, until June 17, 2021, at 86 FR 14807, is withdrawn.

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

The docket web page can be found at *https://www.regulations.gov/* associated with RIN 1990–AA50. The docket web page contains simple instructions on how to access all documents, including public comments, in the docket. See the section on Public Participation for information on how to submit comments through *https://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Mr. Matthew Ring, U.S. Department of Energy, Office of the General Counsel, Forrestal Building, GC–33, 1000 Independence Avenue SW, Washington, DC 20585, (202) 586–2555, Email: *Guidance@hq.doe.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

On July 1, 2020, DOE published a notice of proposed rulemaking (NOPR) in which DOE proposed a new part 1061 in title 10 of the Code of Federal Regulations to implement the requirements of Executive Order 13891, ''Promoting the Rule of Law Through Improved Agency Guidance Documents'' (84 FR 55235).[1] (85 FR 39495) After considering comments from stakeholders on the NOPR, DOE published a final rule, on January 6, 2021, establishing new 10 CFR part 1061. (86 FR 451) As required by Executive Order 13891, part 1061 contained internal DOE requirements for the contents of guidance documents, procedures for providing notice of, and soliciting public comment on, certain guidance documents, and procedures for the public to petition for the issuance, withdrawal or revision of guidance documents.

On January 20, 2021, the President issued Executive Order 13992, ''Revocation of Certain Executive Orders Concerning Federal Regulation'' (86 FR 7049), which, among other things, revoked Executive Order 13891 and directed agencies to promptly take steps to rescind any orders, rules, regulations, guidelines, or policies, or portions thereof, implementing or enforcing the Executive Order 13891. Executive Order 13992 states that it is the policy of the Administration to use available tools to confront the urgent challenges facing the Nation, including the coronavirus disease 2019 (COVID–19) pandemic, economic recovery, racial justice, and climate change. To tackle these challenges effectively, executive departments and agencies must be equipped with the flexibility to use robust regulatory action to address national priorities.

[1] In the NOPR, DOE also responded to a petition for rulemaking submitted by the New Civil Liberties Alliance (NCLA) asking DOE to initiate a rulemaking to prohibit any DOE component from issuing, relying on, or defending improper agency guidance. DOE granted the petition in part and denied it in part. (85 FR 39497)

Previously, DOE postponed the effective date of part 1061 until March 21, 2021. (86 FR 7799) DOE sought comment on further delay of the effective date, including the impacts of such delay, as well as comment on the legal, factual, or policy issues raised by the rule. DOE did not receive comments on these issues. Accordingly, DOE further extended the effective date to June 17, 2021. (86 FR 14807)

On March 26, 2021, DOE published a NOPR in which DOE proposed to withdraw part 1061 (''March 2021 NOPR''). (86 FR 16114) In the March 2021 NOPR DOE tentatively concluded that part 1061 will hinder DOE in providing timely guidance in furtherance of DOE's statutory duties. The March 2021 NOPR stated that part 1061 will in particular hinder DOE's ability to address the economic recovery and climate change challenges enumerated in Executive Order 13992. As discussed in the Executive Order, agencies must have flexibility to timely and effectively address these challenges. The procedures of part 1061 are not required by the Administrative Procedure Act (''APA'') (5 U.S.C. 551 *et seq.*), and they limit the regulatory tools available to DOE to address the challenges such as those listed in Executive Order 13992. DOE concluded that part 1061 deprives DOE of flexibility in determining when and how best to issue guidance based on particular facts and circumstances, and restricts DOE's ability to provide timely guidance on which the public can confidently rely.

Moreover, the March 2021 NOPR stated that DOE's stated purpose in issuing part 1061 was to promote transparency and public involvement in the development and amendment of DOE guidance documents. DOE noted, however, that its procedures for public transparency and involvement in the development of agency guidance documents will remain unchanged by withdrawal of part 1061. More specifically, DOE guidance documents will continue to be available on DOE's website and DOE will also continue its practice, as appropriate, of soliciting stakeholder input on guidance documents of significant stakeholder and public interest.

II. Discussion

After consideration and review, DOE has concluded that part 1061 will hinder DOE in providing timely guidance in furtherance of DOE's statutory duties, and therefore, DOE is withdrawing part 1061. As stated in the March 2021 NOPR, part 1061 will hinder DOE's ability to address the economic recovery and climate change challenges enumerated in Executive Order 13992, and other important issues. The procedures of part 1061 are not required by the Administrative Procedure Act (5 U.S.C. 551 *et seq.*), and they limit the regulatory tools available to DOE to address the challenges listed in Executive Order 13992. Part 1061 deprives DOE of flexibility in determining when and how best to issue guidance based on particular facts and circumstances, and restricts DOE's ability to provide timely guidance on which the public can confidently rely.

As stated in the March 2021 NOPR, DOE intends to continue its practices for public transparency and involvement in the development of agency guidance documents despite the withdrawal. DOE guidance documents will continue to be available on DOE's website. DOE will also continue its practice, as appropriate, of soliciting stakeholder input on guidance documents of significant stakeholder and public interest. Additionally, stakeholders may still petition DOE at any time to issue, withdraw or revise DOE guidance documents, or inquire about DOE guidance documents, by emailing petitions or inquiries to *Guidance@hq.doe.gov.* The benefits of binding DOE to the procedures of part 1061 therefore are outweighed by the need for DOE to have the ability to issue guidance timely and effectively to address challenges including those listed in the Executive Order. Moreover, DOE notes that guidance, whether issued under part 1061 or otherwise, is non-binding, and does not have the force and effect of law.

Summary of Comments and DOE Responses

DOE received five comments on the March 2021 NOPR proposal to withdraw part 1061. These comments and DOE's responses are summarized in the following section.

Joint Comments of AHRI, AHAM, and NEMA

DOE received comments jointly submitted by the Air-Conditioning, Heating, & Refrigeration Institute (AHRI), Association of Home Appliance Manufacturers (AHAM), and the National Electrical Manufacturers Association (NEMA) (collectively, the ''Joint Commenters'').[2] The Joint Commenters noted their experience with DOE guidance documents, specifically through DOE's Office of Energy Efficiency and Renewable Energy (EERE), and that EERE has consistently demonstrated an interest in making guidance documents easy to locate and available to the public. The Joint Commenters stated that EERE's guidance on energy conservation standards and test procedures has proven to be helpful and assisted in resolving complications or confusion that arises on an urgent basis, and that the Joint Commenters appreciated EERE's efforts to make all guidance readily accessible on an EERE web portal and to seek guidance from the public on draft guidance prior to issuing final guidance. (Joint Commenters at 1)

The Joint Commenters questioned the value in withdrawing part 1061, and further stated that transparency and public participation are, and should remain, important tenets of good government. The Joint Commenters stated that they recognize that it is likely the Department will withdraw part 1061 per Executive Order 13992, and that, if that is the case, the Joint Commenters expect that DOE, and particularly EERE, will continue to follow the good guidance practices it has historically followed. Specifically, the Joint Commenters expect that EERE will continue to seek input before issuing final guidance and make its guidance documents available to the public in a central location (the EERE web page) in a searchable format. The Joint Commenters appreciated that DOE's proposal to withdraw part 1061 indicates that DOE will continue to make guidance documents available on its website and will continue the practice of soliciting input on guidance documents of significant public interest, and that DOE recognizes that stakeholders may still petition DOE at any time to issue, withdraw, or revise DOE guidance documents. The Joint Commenters concluded by strongly urging the Department to continue to ensure that guidance is transparent and easily accessible and that all interested parties can participate in its development. (Joint Commenters at 2)

DOE Response

DOE appreciates the comments in support of DOE's transparency and public participation practices with respect to guidance documents, particularly with EERE guidance documents. As noted above, DOE has concluded that part 1061 will hinder DOE in providing timely guidance in furtherance of DOE's statutory duties, and therefore, DOE is withdrawing part 1061. Addressing the challenges enumerated in Executive Order 13992, particularly the economic recovery and

[2] The Joint Commenters' comments may be found on *https://www.regulations.gov* under docket number DOE–HQ–2020 with the Comment ID DOE–HQ–2020–0033–0012.

climate challenges, requires that agencies be able to use all available authorities and resources at their disposal, and that agencies retain maximum flexibility to act quickly when necessary. Part 1061 does not afford DOE the maximum flexibility needed to address these challenges. As noted above, DOE will continue its normal transparency and public participation practices with respect to guidance documents to which the Joint Commenters refer. However, DOE needs the flexibility to deviate from those practices when necessary, and part 1061 would hinder any such deviation.

Comments of FreedomWorks Foundation and the Administrative Law Clinic at the Antonin Scalia Law School

DOE received comments opposing the withdrawal of part 1061 from the Regulatory Action Center at FreedomWorks Foundation (''FreedomWorks'') and the Administrative Law Clinic at the Antonin Scalia Law School (''the Clinic'').[3] Both FreedomWorks and the Clinic noted general issues with agencies' use of guidance documents, particularly that guidance documents often have the effect of binding regulated entities, and that the lack of transparency and availability to the public of agency guidance documents means that many stakeholders are unaware of agency guidance and its effects, especially when agencies change policies through guidance documents. Both commenters also expressed concerns that agencies do not base decisions made in guidance documents on all potentially available information without soliciting public input. (FreedomWorks at 1–2; Clinic at 2–8)

Both commenters stated that Executive Order 13891 aimed to provide more open and fair regulatory processes by requiring agencies to improve their use of guidance documents and provide more transparency in issuing guidance documents. The Clinic further stated that part 1061 addressed the abuse of guidance documents and formalized best practices. (FreedomWorks at 1; the Clinic at 8–10) Regarding DOE's proposed withdrawal of part 1061, the Clinic stated that DOE failed to explain why DOE believes part 1061 will deprive DOE of flexibility in determining when and how best to issue guidance based on particular facts and circumstances and restricts DOE's ability to provide timely guidance, and stated that in DOE's issuance of part 1061 the Department concluded that part 1061 allows DOE sufficient flexibility to efficiently address short-term or urgent challenges. (The Clinic at 10–11) FreedomWorks stated that DOE asserts that transparency and public input will hinder DOE's regulatory output but that this assertion does not support withdrawal of part 1061, because the APA's requirements for notice and comment are intended to make it difficult for agencies to adopt and impose regulations, and though excepted from those requirements, guidance documents often function as rules and are viewed as binding on the public. (FreedomWorks at 2)

The Clinic further stated that it would be inappropriate to enact major, controversial policies through guidance documents, particularly for controversial issues like economic recovery and climate change. (The Clinic at 11) Both commenters expressed that there is no substitute for providing meaningful opportunity for public comment, especially to the extent guidance may be binding. Both commenters concluded by opposing DOE's withdrawal of part 1061. (FreedomWorks at 2–3; the Clinic at 11–12)

DOE Response

As noted above, DOE is obligated to follow the requirements of the APA. Accordingly, DOE will provide notice and opportunity for comment on actions where required by the APA. And, as noted in the March 2021 NOPR, DOE will continue its practice of soliciting input from stakeholders and the public on guidance documents, where appropriate, even though such input is not required by the APA. DOE reiterates that guidance documents are not binding. DOE will continue to make relevant guidance documents available to the public on its website. Additionally, any member of the public may submit questions, comments, or petitions regarding guidance documents to the *Guidance@hq.doe*.gov inbox. DOE notes that Executive Order 13891, the underlying basis for part 1061 and its requirements, has been revoked.

Moreover, part 1061, in accordance with Executive Order 13891, only required notice and opportunity for comment on significant guidance documents, as that term was defined in Executive Order 13891 and part 1061. DOE also notes that, while part 1061 offered DOE some flexibility to issue guidance documents quickly in urgent situations without adhering to the procedures of part 1061, under those procedures, DOE would still have been required to conduct certain internal review procedures and to communicate with the Office of Information and Regulatory Affairs regarding the significance of any guidance document and the issuance of a guidance document in urgent circumstances. These requirements could result in unnecessary or harmful delay in DOE's issuance of important guidance documents that inform the public of important issues in DOE's actions to address the challenges enumerated in Executive Order 13992.

Agencies must be able to use available authorities and resources in order to address these and other challenges. The APA normally does not require notice and comment for guidance, which agencies may use to expediently inform the public as agencies work to address significant and sometimes fast-moving challenges. For example, it may be necessary for agencies to quickly issue guidance documents to inform the public of how an agency is implementing recently passed laws targeting the challenges facing the nation, such as the American Rescue Plan Act of 2021. (Pub. L. 117–2, March 11, 2021) DOE has concluded that the benefit of increased transparency and public input on certain guidance documents provided by part 1061 is outweighed by the need for maximum flexibility to be able to issue guidance documents expediently to insure the public is informed about actions DOE is taking to address the challenges facing the nation, particularly the economic recovery and climate challenges. Part 1061 hinders DOE in having such maximum flexibility in that it could require DOE to delay issuance of final guidance documents that may be best issued quickly to inform the public of DOE actions in order to address the challenges facing the nation.

Comments of ASAP and Others

DOE received comments from the Appliance Standards Awareness Project (''ASAP'') in support of the proposed withdrawal of part 1061.[4] DOE also received a comment from an individual member of the public in support of the proposed withdrawal of part 1061.[5] ASAP agreed with DOE that part 1061 deprives DOE of necessary flexibility to

[3] FreedomWorks' comments may be found on *https://www.regulations.gov* under docket number DOE–HQ–2020 with the Comment ID DOE–HQ–2020–0033–0013. The Clinic's comments may be found on *https://www.regulations.gov* under docket number DOE–HQ–2020 with the Comment ID DOE–HQ–2020–0033–0014.

[4] ASAP's comments may be found on *https://www.regulations.gov* under docket number DOE–HQ–2020 with the Comment ID DOE–HQ–2020–0033–0015.

[5] The individual member of the public's comment may be found on *https://www.regulations.gov* under docket number DOE–HQ–2020 with the Comment ID DOE–HQ–2020–0033–0012.

clarify policies that address climate change and other pressing challenges in a timely manner, and thus, consistent with the policy directive in President Biden's Executive Order 13992, it should be withdrawn. (ASAP at 2) ASAP stated that guidance documents serve a critical role in administrative practice separate from notice-and-comment rulemaking and that requiring guidance documents to go through the same processes as rulemaking would upset the careful balance the APA created. ASAP further stated that while the longer process associated with notice and comment may be appropriate in some instances, agencies should retain discretion to determine whether such diversion of resources to notice-and-comment procedures is necessary for non-binding guidance that will not have the force of law, and that flexibility is required to enable agencies to nimbly address evolving issues. (ASAP at 3–4)

ASAP stated that the appropriate use of guidance documents provides clarification around issues such as product efficiency testing that benefits both regulated entities and consumers. ASAP listed several examples of instances in which complex DOE rulemaking necessarily leaves gaps that are not always apparent until they are implemented, and that guidance is an essential tool to fill those gaps and ensure a transparent, level playing field and meaningful efficiency information for consumers. (ASAP at 6–7) ASAP stated that these benefits need not come at the cost of transparency. ASAP also noted DOE's intention to continue its transparency and public input practices with respect to guidance documents and encouraged DOE to explore additional procedures to amplify these efforts, noting that such practice need not be enshrined in a rule, and would be better left to agency discretion. (ASAP at 7)

ASAP further stated that adding procedural hurdles to the use of guidance documents not only undermines those benefits, but also, as multiple studies demonstrate, imposes additional costs on agencies' time and resources, making the use of guidance less likely. ASAP noted that adding procedural hurdles to DOE's ability to issue guidance would incentivize more informal means of setting policy, such as internal memoranda and word-of-mouth instruction to enforcement personnel, which would be considerably less transparent or useful to the public than guidance. (ASAP at 8) ASAP also stated that similar procedural mandates regarding guidance documents at other agencies have proven ineffective and resulted in confusion for regulated entities. ASAP also stated the underlying bases for part 1061 are flawed, particularly that the petition for rulemaking from the New Civil Liberties Alliance that DOE responded to rested on inaccurate premises. (ASAP at 9) ASAP also stated that the proposed withdrawal of part 1061 would further the goals of Executive Order 13992 and would be consistent with other agencies' withdrawals of such rules. ASAP concluded by stating that, while DOE's position does constitute a reversal, it is an appropriate one because the prior rule has not yet been put in effect, and no entity could reasonably claim a reliance interest in its contents. Moreover, ASAP stated that the policy set forth in DOE's March 2021 NOPR is not merely a reflection of a new executive policy, but rather a return to the basic structure of the APA itself, and that structure reflects a sound policy judgment supported by experience and research. (ASAP at 11–12)

DOE Response

DOE appreciates the comments in support of the proposed withdrawal and agrees with the comments. As noted above, Executive Order 13992 listed several significant challenges currently facing the nation. Agencies must be able to use available authorities and resources in order to address these challenges, and are not generally required to engage in the notice-and-comment process for guidance. DOE has concluded that the benefit of increased transparency and public input on certain guidance documents provided by part 1061 is outweighed by the need for maximum flexibility to be able to issue guidance documents expediently to insure the public is informed about actions DOE is taking to address the challenges facing the nation, particularly the economic recovery and climate challenges. Part 1061 hinders DOE in having such maximum flexibility in that it could require DOE to delay issuance of final guidance documents that may be best issued quickly to inform the public of DOE actions in order to address the challenges facing the nation.

Therefore, in accordance with Executive Order 13992 and for the reasons stated above, DOE withdraws its internal agency procedures for issuing guidance documents published at 10 CFR part 1061.

Regulatory Analysis

A. Review Under Executive Order 12866, ''Regulatory Planning and Review''

This final rule is not a ''significant regulatory action'' under Executive Order 12866, ''Regulatory Planning and Review.'' 58 FR 51735 (October 4, 1993). As a result, this action was not reviewed by the Office of Information and Regulatory Affairs in the Office of Management and Budget (OMB). DOE does not anticipate that this rulemaking will have an economic impact on regulated entities. This is a rule of agency procedure and practice. This rule withdraws the regulations governing DOE's internal procedures for the promulgation and processing of guidance documents. DOE is repealing these internal procedures as part of its implementation of Executive Order 13992 and for the reasons cited previously, and does not anticipate incurring significant additional resource costs in doing so.

B. Review Under the Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) requires the preparation of an initial regulatory flexibility analysis (IRFA) for any rule that by law must be proposed for public comment, unless the agency certifies that the rule, if promulgated, will not have a significant economic impact on a substantial number of small entities. As required by Executive Order 13272, Proper Consideration of Small Entities in Agency Rulemaking, 67 FR 53461 (August 16, 2002), DOE published procedures and policies on February 19, 2003, to ensure that the potential impacts of its rules on small entities are properly considered during the rulemaking process, 68 FR 7990. The Department has made its procedures and policies available on the Office of General Counsel's website: *https://energy.gov/gc/office-general-counsel.*

This rule withdraws internal agency procedures regarding DOE's issuance of guidance documents. DOE notes, however, that its procedures for public transparency and involvement in the development of agency guidance documents will remain unchanged by the withdrawal. DOE guidance documents will continue to be available on DOE's website. DOE will also continue its practice, as appropriate, of soliciting stakeholder input on guidance documents of significant stakeholder and public interest. Additionally, stakeholders may still petition DOE at any time to issue, withdraw or revise DOE guidance documents, or inquire

about DOE guidance documents, by emailing petitions or inquiries to *Guidance@hq.doe.gov.* The benefits of binding DOE to the procedures of part 1061 therefore are outweighed by the need for DOE to have the ability to issue guidance timely and effectively to address the challenges listed in the Executive Order. Moreover, DOE notes that guidance, whether issued under part 1061 or otherwise, is non-binding, and does not have the force and effect of law. DOE therefore does not anticipate any significant economic impacts from this final rule. For these reasons, DOE certifies that this rulemaking will not have a significant economic impact on a substantial number of small entities. Accordingly, DOE did not prepare a regulatory flexibility act analysis for this rulemaking. DOE's certification and supporting statement of factual basis will be provided to the Chief Counsel for Advocacy of the Small Business Administration for review under 5 U.S.C. 605(b).

C. Review Under the Paperwork Reduction Act of 1995

This rule imposes no new information or record keeping requirements. Accordingly, Office of Management and Budget (OMB) clearance is not required under the Paperwork Reduction Act. (44 U.S.C. 3501 et seq).

D. Review Under the National Environmental Policy Act of 1969

Pursuant to the National Environment Policy Acy of 1969 (NEPA), DOE has analyzed this action in accordance with NEPA and DOE's NEPA implementing regulations (10 CFR part 1021). DOE has determined that this rule qualifies for a categorical exclusion under 10 CFR part 1021, subpart D, appendix A5 because it amends an existing rule that does not change the environmental effect of the rule and meets the requirements for application of the categorical exclusion. See 10 CFR 1021.410. Therefore, DOE has determined that the promulgation of this rule is not a major Federal action significantly affecting the quality of the human environment within the meaning of NEPA, and does not require an EA or EIS.

E. Review Under Executive Order 13132, ''Federalism''

Executive Order 13132, ''Federalism,'' 64 FR 43255 (August 4, 1999), imposes certain requirements on agencies formulating and implementing policies or regulations that preempt State law or that have federalism implications. The Executive Order requires agencies to examine the constitutional and statutory authority supporting any action that would limit the policymaking discretion of the States and to carefully assess the necessity for such actions. The Executive Order also requires agencies to have an accountable process to ensure meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications. On March 14, 2000, DOE published a statement of policy describing the intergovernmental consultation process it will follow in the development of such regulations. (65 FR 13735) DOE examined this rule and determined that it does not preempt State law and 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. No further action is required by Executive Order 13132.

F. Executive Order 13175 ''Consultation and Coordination With Indian Tribal Governments''

Executive Order 13175, ''Consultation and Coordination with Indian Tribal Governments,'' 65 FR 67249, November 9, 2000, applies to agency regulations that have Tribal implications, that is, regulations that have substantial direct effects on one or more Indian tribes, on the relationship between the Federal Government and Indian Tribes, or on the distribution of power and responsibilities between the Federal Government and Indian Tribes. This rule has been analyzed in accordance with the principles and criteria contained in Executive Order 13175. Because this rule 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.

G. Review Under Executive Order 12988, ''Civil Justice Reform''

With respect to the review of existing regulations and the promulgation of new regulations, section 3(a) of Executive Order 12988, ''Civil Justice Reform,'' 61 FR 4729 (February 7, 1996), imposes on Federal agencies the general duty to adhere to the following requirements: (1) Eliminate drafting errors and ambiguity; (2) write regulations to minimize litigation; and (3) provide a clear legal standard for affected conduct, rather than a general standard and promote simplification and burden reduction. Section 3(b) of Executive Order 12988 specifically requires that Executive agencies make every reasonable effort to ensure that the regulation: (1) Clearly specifies its preemptive effect, if any; (2) clearly specifies any effect on existing Federal law or regulation; (3) provides a clear legal standard for affected conduct, while promoting simplification and burden reduction; (4) specifies its retroactive effect, if any; (5) adequately defines key terms; and (6) addresses other important issues affecting clarity and general draftsmanship under any guidelines issued by the Attorney General. Section 3(c) of Executive Order 12988 requires Executive agencies to review regulations in light of applicable standards in section 3(a) and section 3(b) to determine whether they are met or it is unreasonable to meet one or more of them. DOE has completed the required review and determined that, to the extent permitted by law, the rule meets the relevant standards of Executive Order 12988.

H. Review Under the Unfunded Mandates Reform Act of 1995

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Pub. L. 104–4) requires each Federal agency to assess the effects of Federal regulatory actions on State, local, and tribal governments and the private sector. For a proposed regulatory action likely to result in a rule that may cause the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector of $100 million or more in any one year (adjusted annually for inflation), section 202 of UMRA requires a Federal agency to publish a written statement that estimates the resulting costs, benefits, and other effects on the national economy. (2 U.S.C. 1532(a) and (b)) The UMRA also requires a Federal agency to develop an effective process to permit timely input by elected officers of State, local, and tribal governments on a proposed ''significant intergovernmental mandate'' and requires an agency plan for giving notice and opportunity for timely input to potentially affected small governments before establishing any requirements that might significantly or uniquely affect small governments. On March 18, 1997, DOE published a statement of policy on its process for intergovernmental consultation under UMRA (62 FR 12820) (also available at *https://energy.gov/gc/office-general-counsel*). This rule contains neither an intergovernmental mandate nor a mandate that may result in the expenditure of $100 million or more in any year by State, local, and tribal governments, in the aggregate, or by the private sector, so these requirements

under the Unfunded Mandates Reform Act do not apply.

I. Review Under the Treasury and General Government Appropriations Act of 1999

Section 654 of the Treasury and General Government Appropriations Act of 1999 (Pub. L. 105–277) requires Federal agencies to issue a Family Policymaking Assessment for any rule that may affect family well-being. This rule does not have any impact on the autonomy or integrity of the family as an institution. Accordingly, DOE has concluded that it is not necessary to prepare a Family Policymaking Assessment.

J. Review Under Executive Order 12630, ''Governmental Actions and Interference With Constitutionally Protected Property Rights''

DOE has determined, under Executive Order 12630, ''Governmental Actions and Interference with Constitutionally Protected Property Rights,'' 53 FR 8859 (March 18, 1988), that this rule does not result in any takings which might require compensation under the Fifth Amendment to the United States Constitution.

K. Review Under the Treasury and General Government Appropriations Act, 2001

Section 515 of the Treasury and General Government Appropriations Act, 2001 (44 U.S.C. 3516, note) provides for agencies to review most disseminations of information to the public under guidelines established by each agency pursuant to general guidelines issued by OMB. OMB's guidelines were published at 67 FR 8452 (February 22, 2002), and DOE's guidelines were published at 67 FR 62446 (October 7, 2002). DOE has reviewed this rule under the OMB and DOE guidelines and has concluded that it is consistent with applicable policies in those guidelines.

L. Review Under Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use''

Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use,'' 66 FR 28355 (May 22, 2001), requires Federal agencies to prepare and submit to the Office of Information and Regulatory Affairs (OIRA), Office of Management and Budget, a Statement of Energy Effects for any proposed significant energy action. A ''significant energy action'' is defined as any action by an agency that promulgated or is expected to lead to promulgation of a final rule, and that: (1) Is a significant regulatory action under Executive Order 12866, or any successor order; and (2) is likely to have a significant adverse effect on the supply, distribution, or use of energy, or (3) is designated by the Administrator of OIRA as a significant energy action. The rule withdraws internal agency procedures and does not meet any of the three criteria listed above. Accordingly, the requirements of Executive Order 13211 do not apply.

Approval of the Office of the Secretary

The Secretary of Energy has approved publication of this final rule.

List of Subjects in 10 CFR Part 1061

Administrative practice and procedure.

Signing Authority

This document of the Department of Energy was signed on May 27, 2021, by John T. Lucas, Acting General Counsel, Office of the General Counsel, pursuant to delegated authority from the Secretary of Energy. That document with the original signature and date is maintained by DOE. For administrative purposes only, and in compliance with requirements of the Office of the Federal Register, the undersigned DOE Federal Register Liaison Officer has been authorized to sign and submit the document in electronic format for publication, as an official document of the Department of Energy. This administrative process in no way alters the legal effect of this document upon publication in the **Federal Register**.

Signed in Washington, DC, on June 1, 2021.

Treena V. Garrett,

Federal Register Liaison Officer, U.S. Department of Energy.

■ Accordingly, the final rule adding 10 CFR part 1061, published in the **Federal Register** on January 6, 2021 (86 FR 45), is withdrawn.

[FR Doc. 2021–11753 Filed 6–3–21; 8:45 am]

BILLING CODE 6450–01–P

FEDERAL RESERVE SYSTEM

12 CFR Part 204

[Docket No. R–1737]

RIN 7100–AG07

Regulation D: Reserve Requirements of Depository Institutions

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rule.

SUMMARY: The Board of Governors of the Federal Reserve System (''Board'') is adopting amendments to Regulation D (Reserve Requirements of Depository Institutions) to eliminate references to an ''interest on required reserves'' rate and to an ''interest on excess reserves'' rate and replace them with a reference to a single ''interest on reserve balances'' rate; and to simplify the formula used to calculate the amount of interest paid on balances maintained by or on behalf of eligible institutions in master accounts at Federal Reserve Banks, and to make other conforming amendments. The Board requested comment on the amendments and received one comment that addressed issues not raised by the proposed amendments. Accordingly, the Board is adopting the final rule as proposed without change.

DATES: Effective July 29, 2021.

FOR FURTHER INFORMATION CONTACT: Sophia H. Allison, Senior Special Counsel, (202–452–3565), Legal Division, or Matthew Malloy (202–452–2416), Division of Monetary Affairs, or Heather Wiggins (202–452–3674), Division of Monetary Affairs; for users of Telecommunications Device for the Deaf (TDD) only, contact 202–263–4869; Board of Governors of the Federal Reserve System, 20th and C Streets NW, Washington, DC 20551.

SUPPLEMENTARY INFORMATION:

I. Statutory and Regulatory Background

Section 19(b)(2) of the Federal Reserve Act (''Act'') [1] requires each depository institution to maintain reserves against its transaction accounts, nonpersonal time deposits, and Eurocurrency liabilities within ratios prescribed by the Board for the purpose of implementing monetary policy.[2] The Board's Regulation D (Reserve Requirements of Depository Institutions, 12 CFR part 204) implements the reserve requirements provisions of section 19. Effective March 24, 2020, the Board amended Regulation D to set all reserve requirement ratios for transaction accounts to zero percent.[3]

Section 19(b)(12) of the Act provides that balances maintained by or on behalf of ''eligible institutions'' in accounts at Federal Reserve Banks may receive

[1] 12 U.S.C. 461(b)(2).

[2] Reserve requirement ratios for nonpersonal time deposits and Eurocurrency liabilities have been set at zero percent since 1990. *See* Regulation D (Reserve Requirements of Depository Institutions), Final Rule, 55 FR 50540 (Dec. 7, 1990).

[3] Regulation D (Reserve Requirements of Depository Institutions), Final Rule, 86 FR 8853 (February 10, 2021); *see* Regulation D (Reserve Requirements of Depository Institutions), Interim Final Rule, 85 FR 16525 (March 24, 2020).

earnings to be paid by the Reserve Bank at least once each quarter, at a rate or rates not to exceed the general level of short-term interest rates.[4] Eligible institutions include depository institutions and certain other institutions as specified in the Act.[5] Section 19(b)(12) also provides that the Board may prescribe regulations concerning the payment of earnings on balances at a Reserve Bank.[6]

By notice published in the **Federal Register** on January 8, 2021, the Board requested comment on proposed amendments to Regulation D that would (1) eliminate references to an ''IORR'' (interest on required reserves) rate and to an ''IOER'' (interest on excess reserves) rate and replace them with references to a single ''interest on reserve balances'' (''IORB'') rate; and (2) simplify the formula used to calculate the amount of interest paid on balances maintained by or on behalf of eligible institutions in master accounts at Federal Reserve Banks and make other conforming changes.[7] The public comment period closed on March 9, 2021.

II. Comments and Final Rule

The Board received one comment that addressed issues not raised by the proposed amendments. Accordingly, the Board is adopting the proposed amendments as a final rule without change.

III. Administrative Law Matters

A. Effective Date

The Administrative Procedure Act (APA) generally requires that a final rule be published in the **Federal Register** no less than 30 days before its effective date.[8] The Board has determined that the final rule will become effective on July 29, 2021. The selected effective date aligns the final rule with the first day following conclusion of the preceding maintenance period in order to facilitate operational implementation of the final rule's rate and rate calculation provisions.

B. Regulatory Flexibility Act

The Regulatory Flexibility Act[9] generally requires an agency, in connection with a proposed rule, to prepare and make available for public comment an initial regulatory flexibility analysis that describes the impact of a proposed rule on small entities. The Small Business Administration has defined ''small entities'' to include banking organizations with total assets of less than or equal to $600 million.

The Board did not receive any comments on its initial regulatory flexibility analysis. As discussed in the **SUPPLEMENTARY INFORMATION** above, the final rule applies to all eligible institutions regardless of size, does not impose any new recordkeeping, reporting, or compliance requirements, and does not duplicate, overlap, or conflict with any other Federal rules. In light of the foregoing, the Board certifies that the final rule will not have a significant economic impact on a substantial number of small entities.

C. Paperwork Reduction Act

The Paperwork Reduction Act of 1995[10] (PRA) prohibits an agency from conducting or sponsoring an information collection unless it displays a currently valid Office of Management and Budget (OMB) control number. The final rule contains no collections of information subject to the PRA.

D. Plain Language

Section 772 of the Gramm-Leach-Bliley Act[11] requires the Board to use ''plain language'' in all proposed and final rules published after January 1, 2000. The Board did not receive any comments with respect to making the proposed rule easier to understand and is adopting the final rule without change.

List of Subjects in 12 CFR Part 204

Banks, Banking, Reporting and recordkeeping requirements.

Authority and Issuance

For the reasons set forth in the **SUPPLEMENTARY INFORMATION**, the Board is amending 12 CFR part 204 as follows:

PART 204—RESERVE REQUIREMENTS OF DEPOSITORY INSTITUTIONS (REGULATION D)

■ 1. The authority citation for part 204 continues to read as follows:

Authority: 12 U.S.C. 248(a), 248(c), 371a, 461, 601, 611, and 3105.

■ 2. In § 204.2, paragraph (aa) is revised to read as follows:

§ 204.2 Definitions.

* * * * *

(aa) *Excess balance account* means an account at a Reserve Bank pursuant to § 204.10(d) of this chapter that is established by one or more eligible institutions through an agent and in which only balances of the participating eligible institutions may at any time be maintained. An excess balance account is not a ''pass-through account'' for purposes of this part.

* * * * *

■ 3. In § 204.10, paragraphs (b) introductory text, (b)(1) through (3), and (d)(1) through (4) are revised to read as follows:

§ 204.10 Payment of interest on balances.

* * * * *

(b) *Payment of interest.* Interest on balances maintained at Federal Reserve Banks by or on behalf of an eligible institution is established as set forth in paragraphs (b)(1) and (2) of this section.

(1) For balances maintained in an eligible institution's master account, interest is the amount equal to the interest on reserve balances rate (''IORB rate'') on a day multiplied by the total balances maintained on that day. The IORB rate is 0.10 percent.

(2) For term deposits, interest is:

(i) The amount equal to the principal amount of the term deposit multiplied by a rate specified in advance by the Board, in light of existing short-term market rates, to maintain the federal funds rate at a level consistent with monetary policy objectives; or

(ii) The amount equal to the principal amount of the term deposit multiplied by a rate determined by the auction through which such term deposits are offered.

(3) For purposes of § 204.10(b), a ''master account'' is the record maintained by a Federal Reserve Bank of the debtor-creditor relationship between the Federal Reserve Bank and a single eligible institution with respect to deposit balances of the eligible institution that are maintained with the Federal Reserve Bank. A ''master account'' is not a ''term deposit,'' an ''excess balance account,'' a ''joint account,'' or any deposit account maintained with a Federal Reserve Bank governed by an agreement that states the account is not a master account.

* * * * *

(d) * * *

(1) A Reserve Bank may establish an excess balance account for eligible institutions under the provisions of this paragraph (d). Notwithstanding any other provisions of this part, the balances maintained by eligible institutions in an excess balance account represent a liability of the

[4] 12 U.S.C. 461 (b)(12)(A).

[5] *See* 12 U.S.C. 461(b)(1)(A) & (b)(12)(C); *see also* 12 CFR 204.2(y).

[6] *See* 12 U.S.C. 461(b)(12)(B).

[7] Regulation D (Reserve Requirements of Depository Institutions), Notice of Proposed Rulemaking, 86 FR. 1303 (Jan. 8, 2021).

[8] 5 U.S.C. 553(d).

[9] 5 U.S.C. 601 *et seq.*

[10] 44 U.S.C. 3506; *see* 5 CFR part 1320, appendix A.1.

[11] Public Law 106–102, section 722, 113 Stat. 1338, 1471 (1999).

Reserve Bank solely to those participating eligible institutions.

(2) The participating eligible institutions in an excess balance account shall authorize another institution to act as agent of the participating institutions for purposes of general account management, including but not limited to transferring the balances of participating institutions in and out of the excess balance account. An excess balance account must be established at the Reserve Bank where the agent maintains its master account, unless otherwise determined by the Board. The agent may not commingle its own funds in the excess balance account.

(3) Balances maintained in an excess balance account may not be used for general payments or other activities.

(4) Interest on balances of eligible institutions maintained in an excess balance account is the amount equal to the IORB rate in effect on a day multiplied by the total balances maintained on that day.

* * * * *

By order of the Board of Governors of the Federal Reserve System.

Ann Misback,

Secretary of the Board.

[FR Doc. 2021–11758 Filed 6–3–21; 8:45 am]

BILLING CODE 6210–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2020–0975; Project Identifier 2020–NM–061–AD; Amendment 39–21566; AD 2021–11–04]

RIN 2120–AA64

Airworthiness Directives; De Havilland Aircraft of Canada Limited (Type Certificate Previously Held by Bombardier, Inc.) Airplanes

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

ACTION: Final rule.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for certain De Havilland Aircraft of Canada Limited Model DHC–8–400, –401, and –402 airplanes. This AD was prompted by a report of main landing gear (MLG) retractions after striking an obstacle or severe wheel imbalance after a tire failure. This AD requires inspections for correct height of the lock link over-center stop pin and for correct gaps of the left-hand and right-hand MLG downlock proximity sensors, replacement of the shim if necessary, corrective actions, and installation of a new, improved proximity sensor electronic unit (PSEU) with software changes. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective July 9, 2021.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in this AD as of July 9, 2021.

ADDRESSES: For service information identified in this final rule, contact De Havilland Aircraft of Canada Limited, Q-Series Technical Help Desk, 123 Garratt Boulevard, Toronto, Ontario M3K 1Y5, Canada; telephone 416–375–4000; fax 416–375–4539; email *thd@dehavilland.com;* internet *https://dehavilland.com.* You may view this 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–2020–0975.

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–2020–0975; 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: Darren Gassetto, Aerospace Engineer, Mechanical Systems and Administrative Services Section, FAA, New York ACO Branch, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; telephone 516–228–7323; fax 516–794–5531; email *9-avs-nyacocos@faa.gov.*

SUPPLEMENTARY INFORMATION:

Background

Transport Canada Civil Aviation (TCCA), which is the aviation authority for Canada, has issued TCCA AD CF–2016–31R1, dated March 24, 2017 (TCCA AD CF–2016–31R1) (also referred to as the Mandatory Continuing Airworthiness Information, or the MCAI), to correct an unsafe condition for certain De Havilland Aircraft of Canada Limited Model DHC–8–400, –401, and –402 airplanes. You may examine the MCAI in the AD docket on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2020–0975.

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to certain De Havilland Aircraft of Canada Limited Model DHC–8–400, –401, and –402 airplanes. The NPRM published in the **Federal Register** on November 2, 2020 (85 FR 69276). The NPRM was prompted by a report of MLG retractions after striking an obstacle or severe wheel imbalance after a tire failure. The NPRM proposed to require inspections for correct height of the lock link over-center stop pin and for correct gaps of the left-hand and right-hand MLG downlock proximity sensors, replacement of the shim if necessary, corrective actions, and installation of a new improved PSEU with software changes. The FAA is issuing this AD to address loss of MLG downlock signal caused by the vibrations from those events, which leads to de-energizing the MLG solenoid sequence valve (SSV) and subsequent removal of hydraulic pressure from the MLG downlock actuator. Loss of the hydraulic pressure in the downlock actuator, combined with the vibrations, can cause the stabilizer brace to unlock and the MLG to subsequently retract. See the MCAI for additional background information.

Comments

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

Request To Exclude Certain Steps of the Accomplishment Instructions of Service Information

Horizon Air requested that paragraphs (g), (h), and (i) of the proposed AD be revised to require only paragraph 3.B. of the Accomplishment Instructions of the service bulletins referenced in those paragraphs. Horizon Air stated that the Job Set-up section (paragraph 3.A.) of the Accomplishment Instructions do not directly address the unsafe condition. Horizon Air also asserted that retaining the Job Set-up sections restricts an operator's ability to do other maintenance in conjunction with the required service bulletins.

The FAA disagrees with the request to exclude paragraph 3.A., Job Set-up, of

the Accomplishment Instructions from this AD's requirements. The Job Set-up sections of the required service bulletins include specific procedures for the electrical power and proper configurations of the nose landing gear (NLG) and MLG, which are necessary for accomplishing the applicable corrective actions on the PSEUs and proximity detectors and to prevent possible damage to that equipment. Requiring the Job Set-up instructions should not, in general, restrict the ability to schedule other maintenance actions in conjunction with the required actions. The FAA has not changed this AD in this regard.

Request To Allow Use of Alternative Service Information When Installing a Certain Part

Horizon Air requested that paragraph (i) of the proposed AD be revised to also allow installation of PSEU part number (P/N) 30145–0602 in accordance with Bombardier Service Bulletin 84–32–143, Revision B, dated November 16, 2016. Horizon Air pointed out that both documents stated that operators may receive a PSEU with P/N 30145–0601 or 30145–0602. Further, Horizon Air noted that PSEU P/N 30145–0602 is ''two-way interchangeable'' with P/N 30145–0601, and that the installation instructions are the same in both service bulletins.

The FAA disagrees with the request to revise paragraph (i) of this AD. The FAA agrees that the service information does state a two-way interchangeability of PSEU P/N 30145–0601 with PSEU P/N 30145–0602 and that operators may receive either PSEU P/N due to component availability. However, the service information also states that those in receipt of a PSEU must declare the appropriate service information specific to the PSEU P/N. In addition, while most of the Accomplishment Instructions between Bombardier Service Bulletin 84–32–143, Revision B, dated November 16, 2016, and Bombardier Service Bulletin 84–32–149, dated November 16, 2016, are the same, they are not identical. Therefore, recording compliance with another service bulletin would not be in compliance with the applicable corrective actions for the PSEU P/N. The FAA has not changed the AD in this regard.

Conclusion

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

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

Related Service Information Under 1 CFR Part 51

De Havilland Aircraft of Canada Limited has issued Bombardier Service Bulletin 84–32–140, Revision B, dated January 30, 2018. This service information describes set-up procedures for proper configuration of the MLG prior to performing subsequent procedures for inspections for correct height of the lock link over-center stop pin and for correct gaps of the left-hand and right-hand MLG downlock proximity sensors, and replacement of the shim.

De Havilland Aircraft of Canada Limited has also issued Bombardier Service Bulletin 84–32–143, Revision B, dated November 16, 2016, which describes procedures for installation of a new, improved PSEU, P/N 30145–0601, with software changes.

De Havilland Aircraft of Canada Limited has also issued Bombardier Service Bulletin 84–32–149, dated November 16, 2016, which describes procedures for installation of a new, improved PSEU, P/N 30145–0602, with software changes.

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

Costs of Compliance

The FAA estimates that this AD affects 57 airplanes 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 12 work-hours × $85 per hour = Up to $1,020	Up to $4,750	Up to $5,770	Up to $328,890.

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 aircraft that might need these on-condition actions:

ESTIMATED COSTS OF ON-CONDITION ACTIONS

Labor cost	Parts cost	Cost per product
1 work-hour × $85 per hour = $85	$374	$459

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:

2021–11–04 De Havilland Aircraft of Canada Limited (Type Certificate Previously Held by Bombardier, Inc.): Amendment 39–21566; Docket No. FAA–2020–0975; Project Identifier 2020–NM–061–AD.

(a) Effective Date

This airworthiness directive (AD) is effective July 9, 2021.

(b) Affected Airworthiness Directives (ADs)

None.

(c) Applicability

This AD applies to De Havilland Aircraft of Canada Limited (type certificate previously held by Bombardier, Inc.) Model DHC–8–400, –401, and –402 airplanes, certificated in any category, having serial numbers 4001, and 4003 through 4534 inclusive.

(d) Subject

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

(e) Reason

This AD was prompted by a report of main landing gear (MLG) retractions after striking an obstacle or severe wheel imbalance after a tire failure. The FAA is issuing this AD to address loss of MLG downlock signal caused by the vibrations from those events, which leads to de-energizing the MLG solenoid sequence valve and subsequent removal of hydraulic pressure from the MLG downlock actuator. Loss of the hydraulic pressure in the downlock actuator, combined with the vibrations, can cause the stabilizer brace to unlock and the MLG to subsequently retract.

(f) Compliance

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

(g) Downlock Sensor Rigging and Reduced Lock Link Over-Center

Within 9 months after the effective date of this AD: Verify both the height of the lock link over-center stop pin and the gap of the left-hand and right-hand MLG downlock proximity sensors, and perform corrective actions as required, in accordance with paragraphs 3.A. and 3.B. of the Accomplishment Instructions of Bombardier Service Bulletin 84–32–140, Revision B, dated January 30, 2018. Do all applicable corrective actions before further flight.

(h) Installation of Proximity Sensor Electronic Unit (PSEU) Part Number (P/N) 30145–0601

Within 18 months after the effective date of this AD, install PSEU P/N 30145–0601 in accordance with paragraphs 3.A. and 3.B. of the Accomplishment Instructions of Bombardier Service Bulletin 84–32–143, Revision B, dated November 16, 2016.

(i) Installation of PSEU P/N 30145–0602

Installing PSEU P/N 30145–0602 in accordance with paragraphs 3.A. and 3.B. of the Accomplishment Instructions of Bombardier Service Bulletin 84–32–149, dated November 16, 2016, also accomplishes the requirements of paragraphs (g) and (h) of this AD.

(j) Credit for Previous Actions

(1) This paragraph provides credit for actions required by paragraph (g) of this AD, if those actions were performed before the effective date of this AD using the service information as specified in paragraphs (j)(1)(i) or (ii) of this AD.

(i) Bombardier Service Bulletin 84–32–140, dated August 5, 2016.

(ii) Bombardier Service Bulletin 84–32–140, Revision A, dated June 12, 2017.

(2) This paragraph provides credit for actions required by paragraphs (g) and (h) of this AD, if PSEU P/N 30145–0601 was installed before the effective date of this AD using the service information as specified in paragraphs (j)(2)(i) or (ii) of this AD.

(i) Bombardier Service Bulletin 84–32–143, dated June 30, 2016.

(ii) Bombardier Service Bulletin 84–32–143, Revision A, dated August 5, 2016.

(k) Other FAA AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, New York 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 ATTN: Program Manager, Continuing Operational Safety, FAA, New York ACO Branch, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; telephone 516–228–7300; fax 516–794–5531. Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office.

(2) *Contacting the Manufacturer:* For any requirement in this AD to obtain instructions from a manufacturer, the instructions must be accomplished using a method approved by the Manager, New York ACO Branch, FAA; or Transport Canada Civil Aviation (TCCA); or De Havilland Aircraft of Canada Limited's TCCA Design Approval Organization (DAO). If approved by the DAO, the approval must include the DAO-authorized signature.

(l) Related Information

(1) Refer to Mandatory Continuing Airworthiness Information (MCAI) TCCA AD CF–2016–31R1, dated March 24, 2017, for related information. This MCAI may be found in the AD docket on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2020–0975.

(2) For more information about this AD, contact Darren Gassetto, Aerospace Engineer, Mechanical Systems and Administrative Services Section, FAA, New York ACO Branch, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; telephone 516–228–7323; fax 516–794–5531; email *9-avs-nyacocos@faa.gov.*

(3) Service information identified in this AD that is not incorporated by reference is available at the addresses specified in paragraphs (m)(3) and (4) of this AD.

(m) Material Incorporated by Reference

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

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

(i) Bombardier Service Bulletin 84–32–140, Revision B, dated January 30, 2018.

(ii) Bombardier Service Bulletin 84–32–143, Revision B, dated November 16, 2016.

(iii) Bombardier Service Bulletin 84–32–149, dated November 16, 2016.

(3) For service information identified in this AD, contact De Havilland Aircraft of Canada Limited, Q-Series Technical Help

Desk, 123 Garratt Boulevard, Toronto, Ontario M3K 1Y5, Canada; telephone 416–375–4000; fax 416–375–4539; email *thd@dehavilland.com;* internet *https://dehavilland.com.*

(4) You may view this 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.

(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 May 27, 2021.

Ross Landes,

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

[FR Doc. 2021–11674 Filed 6–3–21; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2021–0014; Project Identifier MCAI–2020–01457–T; Amendment 39–21573; AD 2021–11–11]

RIN 2120–AA64

Airworthiness Directives; Airbus SAS Airplanes

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 SAS Model A330–200 Freighter series airplanes. This AD was prompted by a report indicating occurrences of broken brackets of the support structure of the halon fire extinguishing bottle 4005WX; investigation showed that fatigue cracks initiated in the attachment brackets at the cross beams due to dynamic loading, and in some cases propagated in the struts. This AD requires replacing the support brackets of the 4005WX fire extinguisher bottle with reinforced support brackets, and replacing the strut assembly at the affected location, 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 July 9, 2021.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of July 9, 2021.

ADDRESSES: For material incorporated by reference (IBR) in this AD, contact 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, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195. It is also available in the AD docket on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2021–0014.

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–2021–0014; 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: Vladimir Ulyanov, Aerospace Engineer, Large Aircraft Section, International Validation Branch, FAA, 2200 South 216th St., Des Moines, WA 98198; telephone and fax: 206–231–3229; email *vladimir.ulyanov@faa.gov.*

SUPPLEMENTARY INFORMATION:

Background

EASA, which is the Technical Agent for the Member States of the European Union, has issued EASA AD 2020–0234, dated October 27, 2020 (EASA AD 2020–0234) (also referred to as the Mandatory Continuing Airworthiness Information, or the MCAI), to correct an unsafe condition for certain Airbus SAS Model A330–200 Freighter series airplanes.

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 SAS Model A330–200 Freighter series airplanes. The NPRM published in the **Federal Register** on February 22, 2021 (86 FR 10498). The NPRM was prompted by a report indicating occurrences of broken brackets of the support structure of the halon fire extinguishing bottle 4005WX; investigation showed that fatigue cracks initiated in the attachment brackets at the cross beams due to dynamic loading, and in some cases propagated in the struts. The NPRM proposed to require replacing the support brackets of the 4005WX fire extinguisher bottle with reinforced support brackets, and replacing the strut assembly at the affected location, as specified in EASA AD 2020–0234.

The FAA is issuing this AD to address fatigue cracking on the attachment brackets, which could lead to damage of the tubing and electrical wiring of the lower deck cargo compartment (LDCC) fire extinguishing system, and possibly result in insufficient fire suppression capability in the LDCC. 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 2020–0234 describes procedures for replacing the support brackets of the 4005WX fire extinguisher bottle with reinforced support brackets, and replacing the strut assembly at the right-hand underfloor section 13/14 at frame (FR) 34/35 and FR 35/36. 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 6 airplanes 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
14 work-hours × $85 per hour = $1,190	$1,900	$3,090	$18,540

According to the manufacturer, some or all 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 for affected individuals. As a result, the FAA has included all known costs in the 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.

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:

2021–11–11 Airbus SAS: Amendment 39–21573; Docket No. FAA–2021–0014; Project Identifier MCAI–2020–01457–T.

(a) Effective Date

This airworthiness directive (AD) is effective July 9, 2021.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Airbus SAS Model A330–223F and –243F airplanes, certificated in any category, as identified in European Union Aviation Safety Agency (EASA) AD 2020–0234, dated October 27, 2020 (EASA AD 2020–0234).

(d) Subject

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

(e) Reason

This AD was prompted by a report indicating occurrences of broken brackets of the support structure of the halon fire extinguishing bottle 4005WX; investigation showed that fatigue cracks initiated in the attachment brackets at the cross beams due to dynamic loading, and in some cases propagated in the struts. The FAA is issuing this AD to address fatigue cracking on the attachment brackets, which could lead to damage of the tubing and electrical wiring of the lower deck cargo compartment (LDCC) fire extinguishing system, and possibly result in insufficient fire suppression capability in the LDCC.

(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 2020–0234.

(h) Exceptions to EASA AD 2020–0234

(1) Where EASA AD 2020–0234 refers to its effective date, this AD requires using the effective date of this AD.

(2) The ''Remarks'' section of EASA AD 2020–0234 does not apply to this AD.

(i) Other FAA AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, Large Aircraft Section, International Validation Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or responsible Flight Standards Office, as appropriate. If sending information directly to the Large Aircraft Section, International Validation Branch, send it to the attention of the person identified in paragraph (j) of this AD. Information may be emailed to: *9-AVS-AIR-730-AMOC@faa.gov.* Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the responsible Flight Standards Office.

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

(3) *Required for Compliance (RC):* Except as required by paragraph (i)(2) of this AD, if any service information contains procedures or tests that are identified as RC, those procedures and tests must be done to comply with this AD; any procedures or tests that are not identified as RC are recommended. Those procedures and tests that are not identified as RC may be deviated from using accepted methods in accordance with the operator's maintenance or inspection program without obtaining approval of an AMOC, provided the procedures and tests identified as RC can be done and the airplane can be put back in an airworthy condition. Any substitutions or changes to procedures or tests identified as RC require approval of an AMOC.

(j) Related Information

For more information about this AD, contact Vladimir Ulyanov, Aerospace Engineer, Large Aircraft Section, International Validation Branch, FAA, 2200 South 216th St., Des Moines, WA 98198; telephone and fax: 206–231–3229; email *vladimir.ulyanov@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 2020–0234, dated October 27, 2020.

(ii) [Reserved]

(3) For EASA AD 2020–0234, contact 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 material at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195. This material may be found in the AD docket on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2021–0014.

(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 May 15, 2021.

Gaetano A. Sciortino,

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

[FR Doc. 2021–11725 Filed 6–3–21; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2021–0028; Project Identifier MCAI–2020–01516–T; Amendment 39–21533; AD 2021–09–19]

RIN 2120–AA64

Airworthiness Directives; Airbus SAS Airplanes

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

ACTION: Final rule.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for all Airbus SAS Model A319–171N airplanes, Model A320–271N, –272N, and –273N airplanes, and Model A321–271N, –272N, –271NX, and –272NX airplanes. This AD was prompted by a report indicating that during a full scale fatigue test of the forward engine mounts, premature wear was identified on the forward engine mount shackle assemblies; in addition, during bearing replacement, the bearing lock washer was found broken. This AD requires replacing any forward engine mount shackle assemblies having a certain part number with a serviceable part, and re-identifying the engine mount, or replacing any forward engine mount assemblies having a certain part number, 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 July 9, 2021.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of July 9, 2021.

ADDRESSES: For material incorporated by reference (IBR) in this AD, contact 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 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–2021–0028.

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–2021–0028; 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: Sanjay Ralhan, Aerospace Engineer, Large Aircraft Section, International Validation Branch, FAA, 2200 South 216th St., Des Moines, WA 98198; telephone and fax 206–231–3223; email *Sanjay.Ralhan@faa.gov.*

SUPPLEMENTARY INFORMATION:

Background

The EASA, which is the Technical Agent for the Member States of the European Union, has issued EASA AD 2020–0250, dated November 11, 2020 (EASA AD 2020–0250) (also referred to as the Mandatory Continuing Airworthiness Information, or the MCAI), to correct an unsafe condition for all Airbus SAS Model A319–171N airplanes, Model A320–271N, –272N, and –273N airplanes, and Model A321–271N, –272N, –271NX, and –272NX airplanes.

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to all Airbus SAS Model A319–171N airplanes, Model A320–271N, –272N, and –273N airplanes, and Model A321–271N, –272N, –271NX, and –272NX airplanes. The NPRM published in the **Federal Register** on February 24, 2021 (86 FR 11156). The NPRM was prompted by a report indicating that during a full scale fatigue test of the forward engine mounts, premature wear was identified on the forward engine mount shackle assemblies; in addition, during bearing replacement, the bearing lock washer was found broken. The NPRM proposed to require replacing any forward engine mount shackle assemblies having a certain part number with a serviceable part, and re-identifying the engine mount, or replacing any forward engine mount assemblies having a certain part number, as specified in EASA AD 2020–0250.

The FAA is issuing this AD to address premature wear and broken bearing lock washers at the forward engine mounts, which could lead to overload of the forward engine mount beams and engine mount failure, with consequent in-flight engine detachment, and possibly result in reduced controllability of the airplane. See the MCAI for additional background information.

Comments

The FAA gave the public the opportunity to participate in developing this final rule. The FAA has considered the comment received. The Air Line Pilots Association, International (ALPA) indicated its 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 Service Information Under 1 CFR Part 51

EASA AD 2020–0250 describes procedures for replacing any forward engine mount shackle assemblies having part number D7121513500xxx ('xxx' can be any numerical value) with a serviceable part, and re-identifying the engine mount, or replacing any forward engine mount assemblies having part number D7121506500xxx ('xxx' can be any numerical value) and fitted with an affected engine mount shackle assembly. 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 70 airplanes 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	Up to $75,360	Up to $75,785	Up to $5,304,950.

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

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:

2021–09–19 Airbus SAS: Amendment 39–21533; Docket No. FAA–2021–0028; Project Identifier MCAI–2020–01516–T.

(a) Effective Date

This airworthiness directive (AD) is effective July 9, 2021.

(b) Affected ADs

None.

(c) Applicability

This AD applies to all Airbus SAS Model A319–171N airplanes, Model A320–271N, –272N, and –273N airplanes, and Model A321–271N, –272N, –271NX, and –272NX airplanes, certificated in any category.

(d) Subject

Air Transport Association (ATA) of America Code 71, Powerplant.

(e) Reason

This AD was prompted by a report indicating that during a full scale fatigue test of the forward engine mounts, premature wear was identified on the forward engine mount shackle assemblies; in addition, during bearing replacement, the bearing lock washer was found broken. The FAA is issuing this AD to address premature wear and broken bearing lock washers at the forward engine mounts, which could lead to overload of the forward engine mount beams and engine mount failure, with consequent in-flight engine detachment, and possibly result in reduced controllability of the airplane.

(f) Compliance

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

(g) Requirements

Except as specified in paragraph (h) of this AD: Comply with all required actions and compliance times specified in, and in accordance with, European Union Aviation Safety Agency (EASA) AD 2020–0250, dated November 11, 2020 (EASA AD 2020–0250).

(h) Exceptions to EASA AD 2020–0250

(1) Where EASA AD 2020–0250 refers to its effective date, this AD requires using the effective date of this AD.

(2) The ''Remarks'' section of EASA AD 2020–0250 does not apply to this AD.

(i) Other FAA AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, Large Aircraft Section, International Validation Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or responsible Flight Standards Office, as appropriate. If sending information directly to the Large Aircraft Section, International Validation Branch, send it to the attention of the person identified in paragraph (j) of this AD. Information may be emailed to: *9-AVS-AIR-730-AMOC@faa.gov.* Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the responsible Flight Standards Office.

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

(3) *Required for Compliance (RC):* Except as required by paragraph (i)(2) of this AD, if any service information contains procedures or tests that are identified as RC, those procedures and tests must be done to comply with this AD; any procedures or tests that are not identified as RC are recommended. Those procedures and tests that are not identified as RC may be deviated from using accepted methods in accordance with the operator's maintenance or inspection program without obtaining approval of an AMOC, provided the procedures and tests identified as RC can be done and the airplane can be put back in an airworthy condition. Any substitutions or changes to procedures or tests identified as RC require approval of an AMOC.

(j) Related Information

For more information about this AD, contact Sanjay Ralhan, Aerospace Engineer, Large Aircraft Section, International Validation Branch, FAA, 2200 South 216th St., Des Moines, WA 98198; telephone and fax 206–231–3223; email *Sanjay.Ralhan@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 2020–0250, dated November 11, 2020.

(ii) [Reserved]

(3) For EASA AD 2020–0250, contact 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 material at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195. This material may be found in the AD docket on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2021–0028.

(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 April 23, 2021.

Lance T. Gant,

Director, Compliance & Airworthiness Division, Aircraft Certification Service.

[FR Doc. 2021–11726 Filed 6–3–21; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2020–0642; Airspace Docket No. 19–AWP–98]

RIN 2120–AA66

Amendment of V–25, V–27, V–494, V–108, V–301, and T–257 in the Vicinity of Santa Rosa, CA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action amends VHF Omnidirectional Range (VOR) Federal airways V–25, V–27, V–494, V–108, V–301, and United States Area Navigation route (RNAV) T–257 in the vicinity of Santa Rosa, CA. The amendments are due to the planned decommissioning of the Santa Rosa, CA VOR/Distance Measuring Equipment (DME) navigation aid (NAVAID) which provides navigation guidance for portions of the affected airways. The Santa Rosa VOR/DME is being decommissioned as part of the FAA's VOR Minimum Operational Network (MON) program.

DATES: Effective date 0901 UTC, August 12, 2021. The Director of the Federal Register approves this incorporation by reference action under 1 CFR part 51, subject to the annual revision of FAA Order 7400.11 and publication of conforming amendments.

ADDRESSES: 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: Christopher McMullin, 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 route structure as necessary to preserve the safe and efficient flow of air traffic within the National Airspace System.

History

The FAA published a notice of proposed rulemaking for Docket No. FAA–2020–0642 in the **Federal Register** (85 FR 47928; August 7, 2020), amending VOR Federal airways V–25, V–27, V–494, V–108, V–301, and RNAV route T–257 in the vicinity of Santa Rosa, CA, due to the planned decommissioning of the Santa Rosa, CA, VOR/DME NAVAID. Interested parties were invited to participate in this rulemaking effort by submitting written comments on the proposal. No comments were received.

VOR Federal airways are published in paragraph 6010(a) and United States Area Navigation Routes are published in paragraph 6011 of FAA Order 7400.11E dated July 21, 2020, and effective September 15, 2020, which is incorporated by reference in 14 CFR 71.1. The VOR Federal airways and United States Area Navigation Route listed in this document will be subsequently published in the Order.

Availability and Summary of Documents for Incorporation by Reference

This document amends 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.

The Rule

The FAA is amending 14 CFR part 71 by amending VOR Federal airways V–25, V–27, V–494, V–108, V–301, and RNAV route T–257. The planned decommissioning of the Santa Rosa, CA, VOR/DME has made this action necessary. The VOR Federal airway and United States Area Navigation route actions are described below.

V–25: V–25 extends between Mission Bay, CA and Wenatchee, WA. The FAA will amend V–25 to reflect the new description of the GETER intersection. The GETER intersection will be redefined amending the position on radials from Point Reyes and Mendocino VORs. The unaffected portions of the existing airway will remain as charted.

V–27: V–27 extends between Mission Bay, CA and Seattle, WA. The FAA will amend the description of the GETER intersection to reflect new position on radials from the Point Reyes, CA, VOR/DME and the Mendocino, CA, VOR. The unaffected portions of the existing airway will remain as charted.

V–494: V–494 extends from Crescent City, CA to Hazen, NV. The FAA will amend the legal description by removing the reference to the Santa Rosa, CA, VOR/DME and establishing an intersection (ROZZA) utilizing radials from Point Reyes, CA, VOR/DME and the Scaggs Island, CA, VOR Collocated Tactical Air Navigation System (VORTAC). The unaffected portion of the existing airway will remain as charted.

V–108: V–108 extends from Santa Rosa, CA to Hill City, KS. The FAA will amend the route removing references to the Santa Rosa, CA, VOR/DME and referring to the newly established ROZZA intersection utilizing radials from the Point Reyes, CA, VOR/DME and the Scaggs Island, CA, VORTAC. The unaffected portion of the existing airway will remain as charted.

V–301: V–301 extends from Panoche, CA to Williams, CA. The FAA will amend the route, removing references to the Santa Rosa, CA, VOR/DME and referring to the newly established ROZZA intersection utilizing radials from the Point Reyes, CA, VOR/DME and the Scaggs Island, CA, VORTAC. The unaffected portion of the existing airway will remain as charted.

T–257: T–257 extends from Ventura, CA to Tatoosh, WA. The FAA will amend the route to reflect the amended location of FREES due to the relocation on GETER. The unaffected portion of the existing airway will remain as charted.

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

Regulatory Notices and Analyses

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

Environmental Review

The FAA has determined that this action of amending VOR Federal airways V–25, V–27, V–494, V–108, V–301, and RNAV route T–257, due to the planned decommissioning of the of the Santa Rosa, CA VOR/DME NAVAID, qualifies for categorical exclusion under the National Environmental Policy Act (42 U.S.C. 4321 *et seq.*) and its implementing regulations at 40 CFR part 1500, and in accordance with FAA Order 1050.1F, Environmental Impacts: Policies and Procedures, paragraph 5–6.5a, which categorically excludes from further environmental impact review rulemaking actions that designate or modify classes of airspace areas, airways, routes, and reporting points (see 14 CFR part 71, Designation of Class A, B, C, D, and E Airspace Areas; Air Traffic Service Routes; and Reporting Points). As such, this action is not expected to result in any potentially significant environmental impacts. In accordance with FAA Order 1050.1F, paragraph 5–2 regarding Extraordinary Circumstances, the FAA has reviewed this action for factors and circumstances in which a normally categorically excluded action may have a significant environmental impact requiring further analysis. The FAA has determined that no extraordinary circumstances exist that warrant preparation of an environmental assessment or environmental impact study.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

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

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

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

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

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of FAA Order 7400.11E, Airspace Designations and Reporting Points, dated July 21, 2020, and effective September 15, 2020, is amended as follows:

Paragraph 6010(a) Domestic VOR Federal Airways.

* * * * *

V–25 [Amended]

From Mission Bay, CA, via Los Angeles, CA; INT Los Angeles 261° and Ventura, CA, 144° radials; 6 miles wide, Ventura; San Marcus, CA; Paso Robles, CA; Salinas, CA; INT Salinas 310° and Woodside, CA, 158° radials; Woodside; San Francisco, CA; INT San Francisco 304° and Point Reyes, CA, 161° radials; Point Reyes; INT Point Reyes 352° and Mendocino, CA, 146° radials; 28 miles, 24 miles, 85 MSL, 18 miles, 75 MSL, Red Bluff, CA; 53 miles, 95 MSL, INT Red Bluff 015° and Klamath Falls, OR, 181° radials; 19 miles, 95 MSL, Klamath Falls; 21 miles, 77 miles, 90 MSL, Deschutes, OR; Klickitat, WA; Yakima, WA; Ellensburg, WA; Wenatchee, WA. The airspace below 2,000 feet MSL outside the United States and the airspace more than 3 miles NE of the airway centerline between Seal Beach and INT of Seal Beach 287° and Los Angeles 138° radials is excluded. The airspace within R–2511 and W–289 is excluded. The airspace within R–2519 more than 3 statute miles west of the airway centerline, and the airspace within R–2519 below 5,000 feet MSL is excluded. The portion outside the United States has no upper limit.

* * * * *

V–27 [Amended]

From Mission Bay, CA, INT Mission Bay 319° and Santa Catalina, CA, 099° radials; Santa Catalina; 6 miles wide, Ventura, CA; INT Ventura 326° and Fillmore, CA, 265° radials; INT Fillmore 265° and Gaviota, CA, 143° radials; Gaviota; Morro Bay, CA; INT Morro Bay 308° and Big Sur, CA, 157° radials; Big Sur; INT Big Sur 325° and Point Reyes, CA, 161° radials; Point Reyes; INT Point Reyes 352° and Mendocino, CA, 146° radials; Mendocino; Fortuna, CA; Crescent City, CA; 31 miles, 32 miles, 59 MSL, North Bend, OR; Newport, OR; 39 miles, 30 miles, 45 MSL, Astoria, OR; Hoquiam, WA; Seattle, WA. The airspace below 2,000 feet MSL

outside the United States between San Diego and Santa Catalina, the airspace within R–2516 and W–289, the airspace within R–2519 more than 3 statute miles west of the airway centerline, and the airspace within R–2519 below 5,000 feet MSL, is excluded. The portion outside the United States has no upper limit.

* * * * *

V–494 [Amended]

From Crescent City, CA, via INT Crescent City 195° and Fortuna, CA, 345° radials; Fortuna; INT Fortuna 170° and Mendocino, CA 321° radials; INT Point Reyes, CA 006° and Scaggs Island, CA 314° radials; Sacramento, CA; INT Sacramento 038° and Squaw Valley, CA, 249° radials; Squaw Valley; INT Squaw Valley 078° and Hazen, NV, 244° radials; Hazen.

* * * * *

V–108 [Amended]

From INT Point Reyes 006° and Scaggs Island 314° radials, via Scaggs Island, CA; INT Scaggs Island 131° and Concord, CA, 276° radials; 7 miles wide (4 miles N and 3 miles S of centerline), Concord; Linden, CA. From Meeker, CO; via Red Table, CO; Black Forest, CO; Hugo, CO; 74 miles, 65 MSL, Goodland, KS; Hill City, KS.

* * * * *

V–301 [Amended]

From Panoche, CA; via INT Panoche 317° and Oakland, CA, 110° radials; Oakland; Point Reyes, CA; INT Point Reyes 006° and Scaggs Island 314°; Williams, CA.

* * * * *

Paragraph 6011 United States Area Navigation Routes

* * * * *

T–257 Ventura, CA (VTU) to Tatoosh, WA (TOU) [Amended]

Ventura, CA (VTU) VOR/DME (lat. 34°06′54.21″ N, long. 119°02′58.17″ W)
San Marcus, CA (RZS) VORTAC (lat. 34°30′34.32″ N, long. 119°46′15.57″ W)
Morro Bay, CA (MQO) VORTAC (lat. 35°15′08.12″ N, long. 120°45′34.44″ W)
BLANC, CA FIX (lat. 35°37′53.19″ N, long. 121°21′23.04″ W)
CAATE, CA WP (lat. 36°46′32.29″ N, long. 122°04′09.57″ W)
CHAWZ, CA WP (lat. 37°06′48.59″ N, long. 122°21′09.58″ W)
PORTE, CA FIX (lat. 37°29′23.23″ N, long. 122°28′28.48″ W)
THHEO, CA WP (lat. 37°44′54.55″ N, long. 122°36′54.79″ W)
JAMIN, CA WP (lat. 37°51′16.99″ N, long. 122°40′12.05″ W)
Point Reyes, CA (PYE) VORTAC (lat. 38°04′47.12″ N, long. 122°52′04.18″ W)
FREES, CA FIX (lat. 38°23′13.59″ N, long. 122°55′20.56″ W)
NACKI, CA WP (lat. 38°43′47.73″ N, long. 123°05′52.93″ W)
Mendocino, CA (ENI) VORTAC (lat. 39°03′11.58″ N, long. 123°16′27.58″ W)
FLUEN, CA FIX (lat. 39°32′47.92″ N, long. 123°33′42.75″ W)
PLYAT, CA FIX (lat. 40°20′20.90″ N, long. 123°41′35.88″ W)
CCHUK, CA WP (lat. 40°31′42.18″N., long. 124°04′16.08″ W.)
SCUPY, CA WP (lat. 40°55′23.94″ N., long. 124°18′09.85″ W.)
OLJEK, CA FIX (lat. 41°28′30.66″ N, long. 124°14′20.68″ W)
CIGCA, CA WP (lat. 41°36′39.60″ N, long. 124°17′27.58″ W)
FURNS, CA WP (lat. 41°55′15.86″ N, long. 124°26′09.40″ W)
MITUE, OR FIX (lat. 43°18′49.00″ N, long. 124°30′22.74″ W)
JANAS, OR FIX (lat. 44°17′33.63″ N, long. 124°05′14.25″ W)
Newport, OR (ONP) VORTAC (lat. 44°34′31.26″ N, long. 124°03′38.14″ W)
CUTEL, OR FIX (lat. 44°54′27.50″ N, long. 124°01′25.30″ W)
ILWAC, WA FIX (lat. 46°19′46.62″ N, long. 124°10′49.49″ W)
ZEDAT, WA FIX (lat. 46°35′50.64″ N, long. 124°10′01.14″ W)
WAVLU, WA FIX (lat. 46°50′00.90″ N, long. 124°06′35.70″ W)
Hoquiam, WA (HQM) VORTAC (lat. 46°56′49.35″ N, long. 124°08′57.37″ W)
COPLS, WA WP (lat. 47°06′46.78″ N, long. 124°07′40.80″ W)
WAPTO, WA FIX (lat. 47°28′19.54″ N, long. 124°13′50.38″ W)
OZETT, WA WP (lat. 48°03′07.00″ N, long. 124°35′54.42″ W)
Tatoosh, WA (TOU) VORTAC (lat. 48°17′59.64″ N, long. 124°37′37.36″ W)

* * * * *

Issued in Washington, DC, on May 28, 2021.

George Gonzalez,

Acting Manager, Rules and Regulations Group.

[FR Doc. 2021–11651 Filed 6–3–21; 8:45 am]

BILLING CODE 4910–13–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 51, 52, 78, and 97

[EPA–HQ–OAR–2020–0272; FRL–10024–45–OAR]

RIN 2060–AU84

Revised Cross-State Air Pollution Rule Update for the 2008 Ozone NAAQS; Correction

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; correction.

SUMMARY: The Environmental Protection Agency (EPA) is correcting certain statements in the preamble of the Revised Cross-State Air Pollution Rule (CSAPR) Update for the 2008 Ozone NAAQS, which was published as a final rule in the **Federal Register** on April 30, 2021. The preamble describes a provision of the final regulatory text incorrectly by indicating that the provision applies if a satisfactory demonstration is made, when in fact no demonstration is required. This document corrects the preamble to accurately describe the regulatory text provision.

DATES: The effective date of this document is June 29, 2021.

FOR FURTHER INFORMATION CONTACT: David Lifland, Clean Air Markets Division, Office of Atmospheric Programs, Office of Air and Radiation, at *lifland.david@epa.gov* or 202–343–9151.

SUPPLEMENTARY INFORMATION:

Background

The Revised CSAPR Update was signed by EPA Administrator Michael Regan on March 15, 2021, was published in the **Federal Register** on April 30, 2021 (86 FR 23054), and has an effective date of June 29, 2021. Among other things, the rule includes provisions at new 40 CFR 97.811(d) recalling a certain number of allowances issued under the CSAPR NO_X Ozone Season Group 2 Trading Program (referred to here as ''Group 2 allowances'') equivalent in quantity and useability to the vintage 2021–2024 Group 2 allowances that EPA had previously recorded in the compliance accounts of sources in states covered by the new CSAPR NO_X Ozone Season Group 3 Trading Program (referred to here as ''Group 3 sources''). The recall applies to all Group 3 sources in whose accounts vintage 2021–2024 Group 2 allowances were recorded, including sources that may have already sold the Group 2 allowances or retired. *See generally* 86 FR at 23139–142 and 23201–203.

In response to comments received on the proposal, the regulatory text implementing the recall requirements includes a provision intended to address the possible circumstance where the current owners and operators of a Group 3 source may have obtained ownership and control in a transaction that did not also provide rights to direct the use or transfer of Group 2 allowances recorded in the source's compliance account. In such a circumstance, the regulatory text at new 40 CFR 97.811(d)(2)(ii)(B) provides that responsibility for complying with the Group 2 allowance recall requirements lies with the most recent former owners and operators of the source before the occurrence of any such transactions. *See* 86 FR at 23201.

Need for Corrections

As published, the preamble text describing the regulatory text provision at new 40 CFR 97.811(d)(2)(ii)(B) includes an incorrect statement.

Specifically, at two locations the preamble text states that the provision applies if the occurrence of a qualifying transaction is ''demonstrated to EPA's satisfaction'' and further states that the relevant former owners and operators are identified by reference to such demonstrations. *See* 86 FR at 23139, 23142. In fact, as adopted in the final regulatory text, the provision applies whenever a qualifying transaction has occurred, with no need for any specific demonstration. Further, the relevant former owners and operators are identified by reference to such transactions rather than by reference to any demonstrations. In order to avoid any confusion that might be caused by the incorrect references in the preamble to demonstrations, in this document EPA is revising the preamble text to remove the incorrect references.

No change is being made to the regulatory requirements adopted in the final rule as already reflected in the regulatory text. This correction applies only to the preamble text, and the purpose of the correction is to make the preamble consistent with the existing regulatory language. This change is not to the rule itself and thus does not require the opportunity for notice and comment. Even if this change were considered to be a rule, notice and comment would be unnecessary because this is a minor technical correction that does not substantively alter the regulation. *See* 5 U.S.C. 553(b)(B). This correction will become effective along with the rule on June 29, 2021.

Correction of Publication

■ In rule document 2021–05705 at 86 FR 23054 in the **Federal Register** issue of Friday, April 30, 2021, the following corrections are made:

1. On page 23139, in the third column, in lines 3–4, remove ''it is demonstrated to EPA's satisfaction that'', and in lines 19–20, remove ''for which such a demonstration is not made'' and add in its place ''before any such transactions occurred''; and

2. On page 23142, in the first column, in lines 58–59, remove ''it is demonstrated to EPA's satisfaction that'', and in the second column, in lines 5–6, remove ''for which such a demonstration is not made'' and add in its place ''before any such transactions occurred''.

Dated: May 27, 2021.

Joseph Goffman,

Acting Assistant Administrator, Office of Air and Radiation.

[FR Doc. 2021–11740 Filed 6–3–21; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R04–OAR–2020–0185; FRL–10024–49–Region 4]

Air Plan Approval; Florida; Maintenance Plan Update for the Hillsborough County Lead Area

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is finalizing approval of a State Implementation Plan (SIP) revision submitted by the State of Florida, through the Florida Department of Environmental Protection (FDEP), on January 23, 2020. The SIP revision updates the attainment emissions inventory and the maintenance demonstration, including the projected future emissions inventories, in the maintenance plan for the Hillsborough County lead maintenance area (hereinafter referred to as the ''Hillsborough Area'' or ''Area'') for the 2008 lead national ambient air quality standards (NAAQS). The SIP revision also incorporates recent changes to the air construction permit for the EnviroFocus Technologies, LLC (EnviroFocus) facility in the Area that are related to an increase in the refined lead production limit. EPA believes that this SIP revision meets all relevant Clean Air Act (CAA or Act) statutory and regulatory requirements, is consistent with EPA's guidance, and is in accordance with EPA's September 11, 2018, redesignation of the Hillsborough Area from nonattainment to maintenance.

DATES: This rule is effective July 6, 2021.

ADDRESSES: EPA has established a docket for this action under Docket Identification No. EPA–RO4–OAR–2020–0185. All documents in the docket are listed on the *www.regulations.gov* website. Although listed in the index, some information is not publicly available, *i.e.,* Confidential Business Information or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through *www.regulations.gov* or in hard copy at the Air Regulatory Management Section, Air Planning and Implementation Branch, Air and Radiation Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW, Atlanta, Georgia 30303–8960. EPA requests that if at all possible, you contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday 8:30 a.m. to 4:30 p.m., excluding Federal holidays.

FOR FURTHER INFORMATION CONTACT: Andres Febres, Air Regulatory Management Section, Air Planning and Implementation Branch, Air and Radiation Division, Region 4, U.S. Environmental Protection Agency, 61 Forsyth Street SW, Atlanta, Georgia 30303–8960. The telephone number is (404) 562–8966. Mr. Febres can also be reached via electronic mail at *febres-martinez.andres@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

On November 12, 2008 (73 FR 66964), EPA promulgated a revised primary and secondary lead NAAQS of 0.15 micrograms per cubic meter (μg/m^3). Under EPA's regulations at 40 CFR part 50, the 2008 lead NAAQS are met when the maximum arithmetic 3-month mean concentration for a 3-year period, as determined in accordance with Appendix R of 40 CFR part 50, is less than or equal to 0.15 μg/m^3. *See* 40 CFR 50.16. Ambient air quality monitoring data for the 3-year period must meet a data completeness requirement.

EPA designated the Hillsborough Area [1] as a nonattainment area for the 2008 lead NAAQS on November 22, 2010 (75 FR 71033), effective December 31, 2010, using 2007–2009 ambient air quality data. This established an attainment date of five years after the December 31, 2010, effective date for the 2008 lead nonattainment designations pursuant to CAA section 172(a)(2)(A). Therefore, the Hillsborough Area's attainment date was December 31, 2015.

On April 16, 2015 (80 FR 20441), EPA published a final rule that approved a SIP revision, comprised of an attainment plan, based on Florida's attainment demonstration for the Hillsborough Area that included the base year emissions inventory requirements, a modeling demonstration of attainment for the 2008 lead NAAQS, reasonably available control measure requirements that included reasonably available control technology, a

[1] The Hillsborough Area is comprised of a portion of Hillsborough County in Florida bounded by a 1.5 km radius centered at Universal Transverse Mercator coordinates 364104 meters East, 30093830 meters North, Zone 17, which surrounds Envirofocus.

reasonable further progress plan, and CAA section 172(c)(9) contingency measures for the Hillsborough Area.

Subsequently, on September 11, 2018 (83 FR 45836), EPA published a final rule that approved Florida's March 26, 2018, redesignation request and associated SIP revision for the Hillsborough Area. Specifically, EPA took three separate but related final actions regarding the Hillsborough Area: (1) Determined that the Hillsborough Area attained the 2008 lead NAAQS based on complete, quality-assured, and certified ambient monitoring data for the 2014–2016 period, and that the Hillsborough Area continued to attain the standard based on complete, quality-assured, and certified ambient monitoring data for the 2015–2017 period; (2) approved the maintenance plan for the Hillsborough Area and incorporated it into the Florida SIP; and (3) approved Florida's request for redesignation of the Hillsborough Area from nonattainment to attainment for the 2008 lead NAAQS.

Finally, on January 23, 2020, Florida submitted a SIP revision that seeks to update the attainment emissions inventory and the maintenance demonstration, including the projected future emissions inventories, in the maintenance plan for the Area.[2] The SIP revision also seeks to incorporate recent changes to the air construction permit for the EnviroFocus facility that are related to an increase in the refined lead production limit. A detailed description of the changes, as well as EPA's rationale for approving the January 23, 2020, SIP revision, can be found in the Notice of Propose Rulemaking (NPRM), which published on March 25, 2021. *See* 86 FR 15840). Comments on the March 25, 2021, NPRM were due on or before April 26, 2021. No comments were received.

II. Incorporation by Reference

In this document, EPA is finalizing regulatory text that includes incorporation by reference. In accordance with the requirements of 1 CFR 51.5, EPA is finalizing the incorporation by reference into Florida's SIP, Air Construction Permit No. 0570057–27–AC, issued by FDEP to EnviroFocus with an effective date of December 14, 2012, except for the following: (1) Conditions not specifically related to lead emissions; (2) Section 3, Subsection B, Specific Condition 3; (3) Section 3, Subsection B, Specific Condition 10; (4) Section 3, Subsection C, Specific Condition 5; and (5) Section 3, Subsection G, Specific Condition 5. EPA is also incorporating by reference into Florida's SIP the following conditions from Air Construction Permit No. 0570057–37–AC, issued by FDEP to EnviroFocus with an effective date of November 6, 2019: (1) Section 3, Subsection B, Specific Condition 2;[3] (2) Section 3, Subsection B, Specific Condition 3a;[4] (3) Section 3, Subsection C, Specific Condition 1;[5] and (4) Section 3, Subsection D, Specific Condition 1.[6] EPA has made, and will continue to make, these materials generally available through *www.regulations.gov* and at the EPA Region 4 Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information). Therefore, these materials have been approved by EPA for inclusion in the State implementation plan, have been incorporated by reference by EPA into that plan, are fully federally enforceable under sections 110 and 113 of the CAA as of the effective date of the final rulemaking of EPA's approval, and will be incorporated by reference in the next update to the SIP compilation.[7]

III. Final Action

EPA is approving changes regarding the Hillsborough Area as presented in Florida's January 23, 2020, SIP revision. The changes include corrections to the attainment emissions inventory and the maintenance demonstration, including the projected future emissions inventories, in the maintenance plan for the Area. The SIP revision also includes recent changes to the construction permit for the EnviroFocus facility that authorize an increase in the refined lead production limit at the facility. EPA finds that the changes to the SIP will not interfere with any applicable requirement concerning attainment, RFP, or any other applicable requirement of the CAA. EPA therefore is incorporating the changes to the maintenance plan and the facility's permit into the Florida SIP.

IV. Statutory and Executive Order Reviews

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

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

[2] Florida's SIP revision did not seek changes to any other portions of the maintenance plan. Therefore, those portions of the plan remain in the SIP as approved by EPA in its September 11, 2018, action (83 FR 45836).

[3] This provision states: ''*Lead Production:* The maximum refined lead production from the EFT facility shall not exceed 200,000 tons in any consecutive twelve-month period. [Application No. 0570057–037–AC and Rule 62–210.200 (PTE), F.A.C.]''

[4] This provision states: ''*Furnace Capacities:* Any equipment or any other changes authorized as part of this permit, shall not result in any capacity increase of the reverb or blast furnaces. The reverb furnace shall still be limited to a maximum charge rate of 960 tons per day (TPD) with a maximum capacity of 338,400 tons in any twelve-month consecutive period. The blast furnace shall still have a maximum charge rate of 180 TPD with a maximum capacity of 65,700 tons in any twelve-month consecutive period. [Application No. 050057–037–AC; Rules 62–4.070(3) and 62–210.200(PTE), F.A.C.]''

[5] This provision states: ''*Lead Production:* The maximum refined lead produced from the EFT facility shall not exceed 200,000 tons in any consecutive twelve-month period. [Application No. 0570057–037 and Rule 62–210.200(PTE), F.A.C.]''

[6] This provision states: ''*Production:* The maximum refined lead produced from the enclosed facility shall not exceed 200,000 tons any consecutive twelve-month period. [Application No. 0570057–037–AC and Rule 62.210.200(PTE), F.A.C.]''

[7] *See* 62 FR 27968 (May 22, 1997).

appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

The SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it impose substantial direct costs on tribal governments or preempt tribal law.

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

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by August 3, 2021. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. *See* section 307(b)(2).

List of Subjects in 40 CFR Part 52

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

Dated: May 26, 2021.

John Blevins,

Acting Regional Administrator, Region 4.

For the reasons stated in the preamble, the EPA amends 40 CFR part 52 as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

■ 1. The authority citation for part 52 continues to read as follows:

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

Subpart K—Florida

■ 2. Section 52.520 is amended in paragraph (d) by adding two entries at the end of the table for ''EnviroFocus Technologies, LLC'' and in paragraph (e) by adding an entry at the end of the table for ''2008 Lead NAAQS Maintenance Plan for the Hillsborough Area'' to read as follows:

§ 52.520 Identification of plan.

* * * * *

(d) * * *

EPA-APPROVED FLORIDA SOURCE-SPECIFIC REQUIREMENTS

Name of source	Permit No.	State effective date	EPA approval date	Explanation
*	*	*	*	*
EnviroFocus Technologies, LLC.	Air Construction Permit No. 0570057–27–AC.	12/14/2012	6/4/2021 [Insert citation of publication].	Except for conditions not specifically related to lead emissions; Section 3, Subsection B, Specific Conditions 3 and 10; Section 3, Subsection C, Specific Condition 5; and Section 3, Subsection G, Specific Condition 5.
EnviroFocus Technologies, LLC.	Air Construction Permit No. 0570057–37–AC.	11/6/2019	6/14/2021 [Insert citation of publication].	Only incorporating the following conditions: Section 3, Subsection B, Specific Conditions 2 and 3a; Section 3, Subsection C, Specific Condition 1; and Section 3, Subsection D, Specific Condition 1.

(e) * * *

EPA-APPROVED FLORIDA NON-REGULATORY PROVISIONS

Provision	State effective date	EPA approval date	**Federal Register** notice	Explanation
*	*	*	*	*
2008 Lead NAAQS Maintenance Plan for the Hillsborough Area.	1/23/2020	6/4/2021	[Insert citation of publication].	Updates to the attainment emissions inventory and the maintenance demonstration, including the projected future emissions inventories, in the March 26, 2018 maintenance plan.

[FR Doc. 2021–11541 Filed 6–3–21; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 64

[WC Docket No. 17–97; FCC 20–136; FRS 29244]

Call Authentication Trust Anchor

AGENCY: Federal Communications Commission.

ACTION: Final rule; announcement of effective date.

SUMMARY: In this document, the Commission announces that the Office of Management and Budget (OMB) has approved, for a period of three years, the information collection associated with the Commission's *Call Authentication Trust Anchor,* Second Report and Order (*Order*)'s caller ID authentication rules. This document is consistent with the *Order,* which stated that the Commission would publish a document in the **Federal Register** announcing the effective date of those rules.

DATES: The additions of 47 CFR 64.6303(b) (instruction 6) and 64.6305(b) and (c) (instruction 9), published at 85 FR 73360 on November 17, 2020, are effective June 4, 2021. This rule is effective June 4, 2021.

FOR FURTHER INFORMATION CONTACT: Jonathan Lechter, Competition Policy Division, Wireline Competition Bureau, at (202) 418–0984, or email: *jonathan.lechter@fcc.gov.*

SUPPLEMENTARY INFORMATION: This document announces that, on May 13, 2021, OMB approved, for a period of three years, the information collection requirements relating to the caller ID identification rules contained in the Commission's *Order,* FCC 20–136, published at 85 FR 73360 on November 17, 2020 (47 CFR 64.6303(b), 64.6305(b) and (c), and 64.6306(e)). The OMB Control Number is 3060–1285. The Commission publishes this document as an announcement of the effective date of §§ 64.6303(b) and 64.6305(b) and (c). In the *Order* and the text of §§ 64.6305(b) and (c) and 64.6306(e), the Commission directed the Wireline Competition Bureau to set the compliance dates for these rules. On April 20, 2021, the Wireline Competition Bureau released a Public Notice, DA 21–454, setting the date by which voice service providers submit information into the Commission's Robocall Mitigation Database (database) (§ 64.6305(b)) and the date by which intermediate providers may no longer accept voice traffic from any provider that does not appear in the database (§ 64.6305(c)). Voice service providers must submit information into the database by June 30, 2021 and intermediate providers may no longer accept voice traffic from any provider that does not appear in the database by September 28, 2021. We therefore modify the text of § 64.6305(b) and (c), previously published at 85 FR 73360, to incorporate these compliance dates announced by the Wireline Competition Bureau. The amendment to § 64.6306(e), published at 85 FR 73360 on November 17, 2020, remains delayed indefinitely pending further Commission action setting the compliance date for exemption certifications filed under § 64.6306(e) and subsequent publication of the effective date and conforming amendments to the rule in the **Federal Register**.

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 Nicole Ongele, Federal Communications Commission, Room 3.310, 45 Street NE, Washington, DC 20554. Please include the OMB Control Number, 3060–1285, 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 May 13, 2021, for the information collection requirements contained in the modifications to the Commission's rules in 47 CFR part 64 and modifying the language of § 64.6305(b) and (c) to conform to the compliance dates adopted by the Wireline Competition Bureau in *DA 21–454.*

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 is 3060–1285.

The foregoing notice is required by the Paperwork Reduction Act of 1995, Public Law 104–13, October 1, 1995, and 44 U.S.C. 3507.

The total annual reporting burdens and costs for the respondents are as follows:

OMB Control Number: 3060–1285.

OMB Approval Date: May 13, 2021.

OMB Expiration Date: May 31, 2024.

Title: Compliance with the Non-IP Call Authentication Solution Rules; Robocall Mitigation Database; Certification to Verify Exemption from Caller ID Authentication Implementation Mandate.

Form Number: N/A.

Respondents: Business or other for-profit entities.

Number of Respondents and Responses: 6,535 respondents; 6,535 responses.

Estimated Time per Response: .5 hours–3 hours.

Frequency of Response: Recordkeeping requirement and on-occasion reporting requirement.

Obligation to Respond: Mandatory and required to obtain or retain benefits. The statutory authority for this information collection is contained in sections 227(b), 227(e) and 251(e) of the Communications Act of 1934.

Total Annual Burden: 15,520 hours.

Total Annual Cost: No Cost.

Nature and Extent of Confidentiality: The Commission will consider the potential confidentiality of any information submitted, particularly where public release of such information could raise security concerns (*e.g.,* granular location information). Respondents may request materials or information submitted to the Commission or to the Administrator be withheld from public inspection under 47 CFR 0.459 of the Commission's rules.

Privacy Act Impact Assessment: No impact(s).

Needs and Uses: On October 1, 2020, the Commission released the *Order,* FCC 20–136, published at 85 FR 73360, November 17, 2020, adopting final rules—containing information collection requirements—designed to promote caller ID authentication technology. The rules implement the Pallone-Thune Telephone Robocall Abuse Criminal Enforcement and Deterrence Act (TRACED Act), promoting the deployment of caller ID authentication technology, and combatting the practice of illegal caller ID spoofing. In doing so, the *Order* adopts rules governing intermediate providers and caller ID authentication in non-IP networks, implements the exceptions and extensions established by the TRACED Act and prohibits line-item charges for caller ID authentication.

List of Subjects in 47 CFR Part 64

Common carriers.

Federal Communications Commission.

Marlene Dortch,

Secretary.

For the reasons set forth in the preamble, the Federal Communications Commission amends part 64 of title 47 of the Code of Federal Regulations as follows:

PART 64—MISCELLANEOUS RULES RELATING TO COMMON CARRIERS

■ 1. The authority citation for part 64 continues to read as follows:

Authority: 47 U.S.C. 151, 152, 154, 201, 202, 217, 218, 220, 222, 225, 226, 227, 227b, 228, 251(a), 251(e), 254(k), 262, 276, 403(b)(2)(B), (c), 616, 620, 1401–1473, unless otherwise noted; Pub. L. 115–141, Div. P, sec. 503, 132 Stat. 348, 1091.

■ 2. Amend § 64.6305 by revising paragraphs (b)(1) introductory text and (c) to read as follows:

§ 64.6305 Robocall mitigation and certification.

* * * * *

(b) * * *

(1) Not later than June 30, 2021, a voice service provider, regardless of whether it is subject to an extension granted under § 64.6304, shall certify to one of the following:

* * * * *

(c) *Intermediate provider and voice service provider obligations.* Beginning September 28, 2021, intermediate providers and voice service providers shall only accept calls directly from a voice service provider, including a foreign voice service provider that uses North American Numbering Plan resources that pertain to the United States to send voice traffic to residential or business subscribers in the United States, if that voice service provider's filing appears in the Robocall Mitigation Database in accordance with paragraph (b) of this section.

[FR Doc. 2021–11682 Filed 6–3–21; 8:45 am]

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Proposed Rules

Federal Register
Vol. 86, No. 106
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This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF ENERGY

10 CFR Part 430

[EERE–2019–BT–STD–0040]

RIN 1904–AE52

Energy Conservation Program: Energy Conservation Standards for Consumer Products/Certain Commercial and Industrial Equipment; Early Assessment Review; Ceiling Fan Light Kits

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

ACTION: Request for information.

SUMMARY: The U.S. Department of Energy (''DOE'') is undertaking an early assessment review for amended energy conservation standards for ceiling fan light kits (''CFLKs'') to determine whether to amend applicable energy conservation standards for this product. Specifically, through this request for information (''RFI''), DOE seeks data and information to evaluate whether amended energy conservation standards would result in significant savings of energy; be technologically feasible; and be economically justified. DOE welcomes written comments from the public on any subject within the scope of this document (including those topics not specifically raised), as well as the submission of data and other relevant information concerning this early assessment review.

DATES: Written comments and information will be accepted on or before July 6, 2021.

ADDRESSES: Interested persons are encouraged to submit comments using the Federal eRulemaking Portal at *https://www.regulations.gov.* Follow the instructions for submitting comments. Alternatively, interested persons may submit comments, identified by docket number EERE–2019–BT–STD–0040, by any of the following methods:

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

2. *Email:* to *CFLK2019STD0040@ee.doe.gov.* Include docket number EERE–2019–BT–STD–0040 in the subject line of the message.

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

Although DOE has routinely accepted public comment submissions through a variety of mechanisms, including postal mail and hand delivery/courier, the Department has found it necessary to make temporary modifications to the comment submission process in light of the ongoing Covid–19 pandemic. DOE is currently suspending receipt of public comments via postal mail and hand delivery/courier. If a commenter finds that this change poses an undue hardship, please contact Appliance Standards Program staff at (202) 586–1445 to discuss the need for alternative arrangements. Once the Covid–19 pandemic health emergency is resolved, DOE anticipates resuming all of its regular options for public comment submission, including postal mail and hand delivery/courier.

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

The docket web page can be found at *https://www.regulations.gov/docket?D=EERE-2019-BT-STD-0040.* The docket web page contains instructions on how to access all documents, including public comments, in the docket. See section III for information on how to submit comments through *https://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Dr. Stephanie Johnson, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Building Technologies Office, EE–5B, 1000 Independence Avenue SW, Washington, DC 20585–0121. Telephone: (202) 287–1943. Email: *ApplianceStandardsQuestions@ee.doe.gov.*

Ms. Amelia Whiting, U.S. Department of Energy, Office of the General Counsel, GC–33, 1000 Independence Avenue SW, Washington, DC 20585–0121. Telephone: (202) 586–2588. Email: *Amelia.Whiting@hq.doe.gov.*

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

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Introduction
A. Authority and Background
B. Rulemaking History
II. Request for Information
A. Significant Savings of Energy
1. Energy Use Analysis
2. Shipments
3. National Impact Analysis
B. Product Classes
C. Technological Feasibility
1. Technology Assessment
2. Screening Analysis
3. Efficiency Analysis
C. Economic Justification
1. Cost Analysis
2. Life-Cycle Cost and Payback Period Analysis
3. Manufacturer Impact Analysis
III. Submission of Comments

I. Introduction

DOE has established an early assessment review process to conduct a more focused analysis to evaluate, based on statutory criteria, whether a new or amended energy conservation standard is warranted. Based on the information received in response to the RFI and DOE's own analysis, DOE will determine whether to proceed with a rulemaking for a new or amended energy conservation standard. If DOE makes an initial determination that a new or amended energy conservation standard would satisfy the applicable statutory criteria, or DOE's analysis is inconclusive, DOE would undertake the preliminary stages of a rulemaking to issue a new or amended energy conservation standard. If DOE makes an initial determination based upon available evidence that a new or amended energy conservation standard would not meet the applicable statutory criteria, DOE would engage in notice and comment rulemaking before issuing a final determination that new or

amended energy conservation standards are not warranted.

A. Authority and Background

The Energy Policy and Conservation Act, as amended (''EPCA''),[1] authorizes DOE to regulate the energy efficiency of a number of consumer products and certain industrial equipment. (42 U.S.C. 6291–6317) Title III, Part B [2] of EPCA established the Energy Conservation Program for Consumer Products Other Than Automobiles. These products include ceiling fan light kits (''CFLKs''), the subject of this document. (42 U.S.C. 6295(ff); 42 U.S.C. 6291(50)) EPCA prescribed energy conservation standards for these products, and authorized DOE to consider whether to amend these standards. (42 U.S.C. 6295(ff)(2)–(5))

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

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

DOE must follow specific statutory criteria for prescribing new or amended standards for covered products. EPCA requires that any new or amended energy conservation standard prescribed by the Secretary of Energy (''Secretary'') be designed to achieve the maximum improvement in energy or water efficiency that is technologically feasible and economically justified. (42 U.S.C. 6295(o)(2)(A)) The Secretary may not prescribe an amended or new standard that will not result in significant conservation of energy, or is not technologically feasible or economically justified. (42 U.S.C. 6295(o)(3))

EPCA also requires that, not later than 6 years after the issuance of any final rule establishing or amending a standard, DOE evaluate the energy conservation standards for each type of covered product, including those at issue here, and publish either a notice of determination that the standards do not need to be amended, or a notice of proposed rulemaking (''NOPR'') that includes new proposed energy conservation standards (proceeding to a final rule, as appropriate). (42 U.S.C. 6295(m)(1)) DOE is publishing this RFI in accordance with the 6-year lookback requirement.

B. Rulemaking History

EPCA initially established individual energy conservation standards for three groups of CFLKs manufactured on or after January 1, 2007: (1) Those having medium screw base sockets (''Medium Screw Base product class''); (2) those having pin-based sockets for fluorescent lamps (''Pin-Based product class''); and (3) any CFLKs other than those included in the Medium Screw Base product class or the Pin-Based product class, including candelabra screw base sockets (''Other Base Type product class''). (42 U.S.C. 6295(ff)(2)–(4)) In a technical amendment published on October 18, 2005, DOE codified the EPCA requirements for the Medium Screw Base and Pin-Based product classes. 70 FR 60407, 60413. EPCA also specified that if DOE did not issue a final rule on energy conservation standards for Other Base Type product class CFLKs by January 1, 2007, a 190 watt (''W'') limit would apply to those products manufactured after January 1, 2009. (42 U.S.C. 6295(ff)(4)(C)) DOE did not issue a final rule on standards for CFLKs by that date, and published a technical amendment that codified EPCA's requirements for Other Base Type product class CFLKs, which applied to such CFLKs manufactured on or after January 1, 2009. 72 FR 1270, 1273–1274 (Jan. 11, 2007). In another technical amendment final rule to adopt updates to EPCA from the Energy Independence and Security Act of 2007, DOE added a provision that CFLKs with sockets for pin-based fluorescent lamps must be packaged with lamps to fill all sockets. 74 FR 12058, 12069 (Mar. 3, 2009). (42 U.S.C. 6295(ff)(4)(C)(ii))

On January 6, 2016, DOE published a final rule adopting amended performance standards for CFLKs manufactured on or after January 7, 2019. 81 FR 580 (''January 2016 Final Rule''). The January 2016 Final Rule established a minimum efficacy requirement for all CFLKs, expressed in lumens per watt (''lm/W'') that is applicable based on the lumen output of each basic model of lamp packaged with the basic model of CFLK or each basic model of integrated solid-state lighting (''SSL'') in the CFLK basic model. *Id.* at 81 FR 581. Subsequently, DOE published a final rule that changed the compliance date from January 7, 2019 to January 21, 2020 to comply with Public Law 115–161, ''Ceiling Fan Energy Conservation Harmonization Act'' (the ''Act''), which was signed into law on April 3, 2018. 83 FR 22587 (May 16, 2018). The Act amended the compliance date for the CFLK standards to establish a single compliance date for the energy conservation standards for both CFLKs and ceiling fans. *Id.* The current energy conservation standards are located in title 10 of the Code of Federal Regulations (''CFR'') part 430, § 430.32(s)(6).

On December 24, 2015, DOE published a final rule (''December 2015 Final Rule'') updating the CFLK test procedure. 80 FR 80209. The currently applicable DOE test procedure for CFLKs appears at 10 CFR part 430, subpart B, appendices V and V1 (''appendices V and V1'').

II. Request for Information

DOE is publishing this RFI to collect data and information during the early assessment review to inform its decision, consistent with its obligations under EPCA, as to whether the Department should proceed with an energy conservation standards rulemaking. Below DOE has identified certain topics for which information and data are requested to assist in the evaluation of the potential for amended energy conservation standards. DOE also welcomes comments on other issues relevant to its early assessment that may not specifically be identified in this document.

A. Significant Savings of Energy

The January 2016 Final Rule established an energy conservation standard for CFLKs that is expected to result in 0.049 quadrillion British thermal units (''quads'') of full-fuel-cycle (''FFC'') energy savings over a 30-year period. 81 FR 580, 582. Additionally, in the January 2016 Final Rule, DOE estimated that an energy conservation standard established at an efficiency level equivalent to that achieved using the maximum available technology (''max-tech'') would have resulted in 0.070 quads of FFC energy savings.[3] 81 FR 580, 620.

[1] All references to EPCA in this document refer to the statute as amended through the Energy Act of 2020, Public Law 116–260 (Dec. 27, 2020).

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

[3] Table V.10 outlines the Cumulative national Energy Savings for CFLKs during a 30 year period.

Continued

While DOE's request for information is not limited to the following issues, DOE is particularly interested in comments, information, and data on the following.

1. Energy Use Analysis

The purpose of the energy use analysis is to determine the annual energy consumption of CFLKs at different efficiencies in representative U.S. homes and commercial buildings, and to assess the energy savings potential of increased CFLK efficacy. To develop annual energy use estimates in the January 2016 Final Rule, DOE multiplied CFLK input power by the hours of use (''HOU'') per year. The energy use analysis estimates the range of energy use of CFLKs in the field (*i.e.,* as they are actually used by consumers). 81 FR 580, 598.

In the January 2016 Final Rule, to determine the average HOU of CFLKs in the residential sector, DOE used data from various field metering studies of GSL operating hours in the residential sector. To account for any difference in CFLK HOU compared to GSL HOU, DOE considered two factors: (1) The relative HOU for GSLs installed in ceiling light fixtures compared to all GSLs based on data from the Residential Lighting End-Use Consumption Study (''RLEUCS''),[4] and (2) the HOU associated with the specific room types in which CFLKs are installed based on installation location data from a Lawrence Berkeley National Laboratory survey of ceiling fan and CFLK owners (''LBNL survey'') [5] and room-specific HOU data from RLEUCS. DOE assumed that CFLK operating hours do not vary by light source technology. DOE estimated that CFLKs are used an average of 2.0 hours per day in the residential sector. 81 FR 580, 598.

For the commercial sector, the HOU for CFLKs in commercial buildings were developed using lighting data for 15 commercial building types obtained from the 2010 U.S. Lighting Market Characterization (''LMC'').[6] For each commercial building type presented in the LMC, DOE determined average HOU based on the fraction of installed lamps utilizing each of the light source technologies typically used in CFLKs and the HOU for each of these light source technologies. A national-average HOU for the commercial sector was then estimated by weighting the building-specific HOU for lamps used in CFLKs by the relative floor space of each building type as reported in the 2003 Energy Information Administration (''EIA'') Commercial Buildings Energy Consumption Survey (''CBECS'').[7] 81 FR 580, 598–599. DOE calculated that, nationwide, CFLKs are used an average of 10.7 hours per day in the commercial sector (see chapter 6 of the January 2016 Final Rule technical support document [''TSD''] [8]).

In the January 2016 Final Rule TSD, DOE did not consider the industrial sector in the analysis because DOE determined that CFLKs are designed almost solely for the low-volume (*i.e.* low air flow) ceiling fan market, which are not suitable for the large spaces characteristic of most industrial buildings (see chapter 6 of the January 2016 Final Rule TSD).

DOE developed its estimate of the power consumption of CFLKs by scaling the input power and lumen output of the representative lamp units from the engineering analysis to account for the lumen output of CFLKs in the market. DOE estimated average CFLK lumen output based on a weighted average of CFLK models from data collected in 2014 from in-store shelf surveys and product offerings on the internet. DOE estimated the market share of each identified CFLK model based on price. 81 FR 580, 599.

In the January 2016 Final Rule, DOE assumed that the only lighting controls used with CFLKs are dimmers. DOE further assumed that CFLKs did not have dimmable CFLs due to technical issues associated with CFL dimmability. DOE estimated CFLKs with dimmable incandescent and LED light sources to be an equal fraction and total 11 percent, and assumed that dimmable CFLKs have an average energy reduction of 30 percent. DOE used these percentages for both the residential and commercial sector in determining the energy consumption. 81 FR 580, 599. (See chapter 6 of the January 2016 Final Rule TSD).

For further details regarding the prior energy use methodology, see chapter 6 of the January 2016 Final Rule TSD.

Issue 1: DOE requests comments on whether the methodology and data sources for determining residential and commercial HOU for CFLKs need to be changed, beyond updating to more recent versions of the sources if updated versions exist.

Issue 2: DOE seeks feedback on its methodology used to determine impact of lighting controls for CFLKs in the January 2016 Final Rule, and whether it is appropriate for future potential analyses.

Issue 3: DOE requests information on the percent of CFLKs that incorporate lighting controls, the types of lighting controls incorporated, and data on how the controls affect typical energy consumption.

2. Shipments

DOE develops shipments forecasts of CFLKs to calculate the national impacts of potential amended energy conservation standards on energy consumption. DOE shipment projections are based on available historical data and an analysis of key market drivers for each product. Historical shipment data are used to build up a product stock and to calibrate the shipments model.

The shipments model projects shipments over a 30-year analysis period for the base case (no-new-standards) and for all standards cases. In the January 2016 Final Rule, shipments were calculated for the residential and commercial sectors by assigning 95 percent of shipments to the residential sector and 5 percent to the commercial sector. DOE further assumed in its analysis that CFLKs are primarily found on standard and hugger ceiling fans. DOE also assumed that the distribution of CFLKs by light source technology in the commercial sector is the same as the light source technology distribution in the residential sector. 81 FR 580, 603. Specifically, the January 2016 Final Rule projected the breakout of shipments across years 2017 through 2020, as shown in Table II.1. (See January 2016 Final Rule Ceiling Fan Light Kits Final Rule National Impact Analysis (NIA) Spreadsheets.[9])

The max-tech trial standard level was TSL 4, which DOE estimated would result in 0.070 quads of FFC energy. 81 FR 580, 620.

[4] DNV KEMA Energy and Sustainability and Pacific Northwest National Laboratory. *Residential Lighting End-Use Consumption Study: Estimation Framework and Initial Estimates.* 2012. (Last accessed December 5, 2019.) *https://www1.eere.energy.gov/buildings/publications/pdfs/ssl/2012_residential-lighting-study.pdf.*

[5] Kantner, C.L.S., S.J. Young, S.M. Donovan, and K. Garbesi. *Ceiling Fan and Ceiling Fan Light Kit Use in the U.S.—Results of a Survey on Amazon Mechanical Turk.* 2013. Lawrence Berkeley National Laboratory: Berkeley, CA. Report No. LBNL–6332E. (Last accessed June 14, 2016.) *http://www.escholarship.org/uc/item/3r67c1f9.*

[6] Navigant Consulting, Inc. *2010 U.S. Lighting Market Characterization.* 2012. U.S. Department of Energy: Washington, DC (Last accessed May 4, 2020.) *https://www1.eere.energy.gov/buildings/publications/pdfs/ssl/2010-lmc-final-jan-2012.pdf.*

[7] U.S. Department of Energy–Energy Information Administration. *2003 Commercial Buildings Energy Consumption Survey (CBECS).* 2003. (Last accessed June 15, 2016.) *https://www.eia.gov/consumption/commercial/data/2003/index.cfm?view=microdata.*

[8] Available at *https://www.regulations.gov/document/EERE-2012-BT-STD-0045-0121.*

[9] Available at *https://www.regulations.gov/document/EERE-2012-BT-STD-0045-0123.*

TABLE II.1—PROJECTED CFLK SHIPMENTS FROM THE JANUARY 2016 FINAL RULE

(Millions of units)

2017	2018	2019	2020
17.2	17.6	17.7	18.1

For further details regarding the prior shipments analysis, see chapter 9 of the January 2016 Final Rule TSD.

Issue 4: DOE seeks feedback on how the shipments in the years shown in Table II.1 compare to actual shipments of CFLKs in those years. DOE also requests data and information on historical shipments of CFLKs and/or suggestions for data sources to use.

Issue 5: DOE requests information on the percent of CFLKs sold with a ceiling fan versus without a ceiling fan and the percent of CFLKs sold into the residential sector versus the commercial sector. DOE also requests feedback on whether these percentages have changed over time or whether they are expected to change in the future.

Issue 6: DOE requests information on any potential market trends that may affect future shipments of CFLKs and/or ceiling fans. DOE also seeks information regarding data that might reasonably and substantively inform the distribution forecast of efficacy levels for CFLKs.

3. National Impact Analysis

The purpose of the national impact analysis (''NIA'') is to estimate the aggregate impacts of potential efficiency standards at the national level. DOE evaluates the impacts of potential amended standards by comparing a no-new-standards-case projection with standards-case projections. The no-new-standards-case projection characterizes energy use and consumer costs in the absence of amended energy conservation standards, whereas the standards-case projections make the same characterizations while eliminating products from the market that don't meet the standard. DOE develops market share distributions for CFLKs at each efficacy level (''EL'') in the no-new-standards case and each of the standards cases in its shipments analysis.

Table II.2 summarizes the inputs and methods DOE used in the NIA for the January 2016 Final Rule. See chapter 10 of the January 2016 Final Rule TSD for further details.

TABLE II.2—SUMMARY OF INPUTS AND METHODS FOR THE NATIONAL IMPACT ANALYSIS IN THE JANUARY 2016 FINAL RULE

Inputs	Method
Shipments	Annual shipments from shipments model.
No-new-standards Case Forecasted Efficacies	Estimated by market-share module of shipments model including impact of SSL incursion.
Standards Case Forecasted Efficacies	Estimated by market-share module of shipments model including impact of SSL incursion.
Annual Energy Consumption per Unit	Annual weighted-average values are a function of energy use at each EL, including impacts of replacing CFLK lamps over the CFLK lifetime.
Total Installed Cost per Unit	Annual weighted-average values are a function of cost at each EL. Incorporates projection of future LED lamp prices based on historical data.
Annual Energy Cost per Unit	Annual weighted-average values as a function of the annual energy consumption per unit and energy prices.
Repair and Maintenance Cost per Unit	Annual values do not change with EL. Replacement lamp costs are calculated for each EL over the analysis period.
Energy Prices	*AEO 2015* forecasts (to 2040) and extrapolation through 2048.
Energy Site-to-Primary and full fuel cycle (FFC) Conversion.	A time-series conversion factor based on *AEO 2015.*
Discount Rate	Three and seven percent.

Issue 7: DOE requests whether the methodologies employed in the NIA for the January 2016 Final Rule remain appropriate. If not, DOE requests information and data on changes to the methodologies that should be considered.

Issue 8: DOE requests feedback on whether potential standards for CFLKs may cause consumers to purchase non-CFLK lighting products.

B. Product Classes

When evaluating and establishing energy conservation standards, DOE may divide covered products into product classes by the type of energy used, or by capacity or other performance-related features that justify a different standard. (42 U.S.C. 6295(q)) In making a determination whether capacity or another performance-related feature justifies a different standard, DOE must consider such factors as the utility of the feature to the consumer and other factors DOE deems appropriate. (*Id.*)

CFLKs manufactured on or after January 21, 2020, must be packaged with lamps to fill all sockets, and each basic model of lamp packaged with the basic model of CFLK and each basic model of integrated SSL in the CFLK basic model must meet a minimum efficacy (specified in lm/W) that is determined based on the lumen output of the basic model of lamp or integrated SSL. 10 CFR 430.32(s)(6). CFLKs are not separated into product classes for the purpose of the minimum efficacy requirement. For CFLKs with medium screw base sockets that are packaged with compact fluorescent lamps (''CFLs''), the CFLs must meet specified lumen maintenance, rapid cycle stress, and lifetime requirements. 10 CFR 430.32(s)(6)(i). CFLKs with pin base fluorescent lamps must use an electronic ballast. 10 CFR 430.32(s)(6)(ii).

Issue 9: DOE requests feedback on whether the current single product class for CFLKs under the minimum efficacy requirements is appropriate. Specifically, DOE requests feedback on whether integrated SSL circuitry offers features not available in light emitting diode (''LED'') lamps that may be packaged with a CFLK and whether such features impact the efficacy of integrated SSLs as compared to LEDs (if efficacy is impacted, please quantify the impact).

Issue 10: DOE seeks information regarding any new product classes it should consider for inclusion in its analysis. Specifically, DOE requests information on the performance-related features (*e.g.,* base type, lamp length, *etc.*) that provide unique consumer utility and data detailing the corresponding impacts on efficacy that would justify separate product classes (*i.e.,* explanation for why the presence

of these performance-related features would decrease efficacy).

C. Technological Feasibility

During the January 2016 Final Rule, DOE considered a number of technology options that manufacturers could use to reduce energy consumption in CFLKs. 81 FR 580, 591.

Issue 11: DOE seeks comment on any changes to these technology options that could affect whether DOE could propose a ''no-new-standards'' determination, such as an insignificant increase in the range of efficiencies and performance characteristics of these technology options. DOE also seeks comment on whether there are any other technology options that

Issue 12: DOE should consider in its analysis.

While DOE's request for information is not limited to the following issues, DOE is particularly interested in comment, information, and data on the following.

1. Technology Assessment

In analyzing the feasibility of potential new or amended energy conservation standards, DOE uses information about existing and past technology options and prototype designs to help identify technologies that manufacturers could use to meet and/or exceed a given set of energy conservation standards under consideration. In consultation with interested parties, DOE intends to develop a list of technologies to consider in its analysis. That analysis will likely include a number of the technology options DOE previously considered during its most recent rulemaking for CFLKs. A complete list of those prior options appears in Table II.3.

TABLE II.3—TECHNOLOGY OPTIONS FOR CFLKS CONSIDERED IN THE JANUARY 2016 FINAL RULE

Lamp type	Name of technology option	Description
CFL	Highly Emissive Electrode Coatings	Improved electrode coatings allow electrons to be more easily removed from electrodes, reducing lamp power and increasing overall efficacy.
	Higher-Efficiency Lamp Fill Gas Composition.	Fill gas compositions improve cathode thermionic emission or increase mobility of ions and electrons in the lamp plasma.
	Higher-Efficiency Phosphors	Techniques to increase the conversion of ultraviolet (''UV'') light into visible light.
	Glass Coatings	Coatings on inside of bulb enable the phosphors to absorb more UV energy, so that they emit more visible light.
	Multi-Photon Phosphors	Emitting more than one visible photon for each incident UV photon.
	Cold Spot Optimization	Improve cold spot design to maintain optimal temperature and improve light output.
	Improved Ballast Components	Use of higher-grade components to improve efficiency of integrated ballasts.
	Improved Ballast Circuit Design	Better circuit design to improve efficiency of integrated ballasts.
	Change in Technology	Replace CFL with LED technology.
LED lamp	Efficient Down Converters	New high-efficiency wavelength conversion materials, such as optimized phosphor conversion, quantum-dots, have the potential for creating warm-white LEDs with improved spectral efficiency, high color quality, and improved thermal stability.
	Improved Package Architectures	Novel package architectures such as color mixing (RGB+) and hybrid architecture to improve package efficacy.
	Improved Emitter Materials	The development of efficient red, green, or amber LED emitters, will allow for optimization of spectral efficiency with high color quality over a range of correlated color temperature (CCT) and which also exhibit color and efficiency stability with respect to operating temperature.
	Alternative Substrate Materials	Alternative substrates such as gallium nitride (GaN), silicon carbide to enable high-quality epitaxy for improved device quality and efficacy.
	Improved Thermal Interface Materials (''TIMs'').	TIMs that enable high-efficiency thermal transfer for long-term reliability and performance optimization of the LED device.
	Optimized Heat Sink Design	Improve thermal conductivity and heat dissipation from the LED chip, thus reducing efficacy loss from rises in junction temperature.
	Active Thermal Management Systems	Devices such as internal fans and vibrating membranes to improve thermal dissipation from the LED chip.
	Device-Level Optics	Enhancements to the primary optic of the LED package such as surface etching that would optimize extraction of usable light from the LED package and reduce losses due to light absorption at interfaces.
	Increased Light Utilization (Secondary Optics).	Reduce or eliminate optical losses from the lamp housing, diffusion, beam shaping, and other secondary optics to increase efficacy using mechanisms such as reflective coatings and improved diffusive coatings.
	Improved Driver Design	Increase driver efficiency through novel and intelligent circuit design.
	AC LEDs	Eliminate the requirements of a driver and therefore reduce efficiency losses from the driver.
	Reduced Current Density	Driving LED chips at lower currents while maintaining light output, and thereby reducing the efficiency losses associated with efficacy droop.

Issue 13: DOE seeks information on the technologies listed in Table II.3 of this document regarding their applicability to the current market and how these technologies may impact the efficacy of light sources in CFLKs as measured according to the DOE test procedure. DOE also seeks information on how these technologies may have changed since they were considered in the January 2016 Final Rule analysis. Specifically, DOE seeks information on the range of efficiencies or performance characteristics that are currently available for each technology option.

Issue 14: DOE seeks information on the technologies listed in Table II.3 of this document regarding their market adoption, costs, and any concerns with incorporating them into products (*e.g.,*

impacts on consumer utility, potential safety concerns, manufacturing/production/implementation issues, *etc.*), particularly as to changes that may have occurred since the January 2016 Final Rule.

Issue 15: DOE seeks comment on other technology options that it should consider for inclusion in its analysis and whether these technologies impact product features or consumer utility.

2. Screening Analysis

The purpose of the screening analysis is to evaluate the technologies that improve the efficacy of light sources to determine which technologies will be eliminated from further consideration and which will be passed to the engineering analysis for further consideration. DOE determines whether to eliminate certain technology options from further consideration based on the following criteria:

(1) *Technological feasibility.* Technologies that are not incorporated in commercial products or in working prototypes will not be considered further.

(2) *Practicability to manufacture, install, and service.* If it is determined that mass production of a technology in commercial products and reliable installation and servicing of the technology could not be achieved on the scale necessary to serve the relevant market at the time of the compliance date of the standard, then that technology will not be considered further.

(3) *Impacts on product utility or product availability.* If a technology is determined to have significant adverse impact on the utility of the product to significant subgroups of consumers, or result in the unavailability of any covered product type with performance characteristics (including reliability), features, sizes, capacities, and volumes that are substantially the same as products generally available in the United States at the time, it will not be considered further.

(4) *Adverse impacts on health or safety.* If it is determined that a technology will have significant adverse impacts on health or safety, it will not be considered further.

(5) *Unique-Pathway Proprietary Technologies.* If a design option utilizes proprietary technology that represents a unique pathway to achieving a given efficiency level, that technology will not be considered further due to the potential for monopolistic concerns.

Sections 6(c)(3) and 7(b) of the Process Rule.

Technology options identified in the technology assessment are evaluated against these criteria using DOE analyses and inputs from interested parties (*e.g.,* manufacturers, trade organizations, and energy efficiency advocates). Technologies that pass through the screening analysis are referred to as ''design options'' in the engineering analysis. Technology options that fail to meet one or more of the five criteria are eliminated from consideration.

Table II.4 summarizes the technology options that DOE screened out in the January 2016 Final Rule, and the applicable screening criteria.

TABLE II.4—SCREENED-OUT TECHNOLOGY OPTIONS FROM THE JANUARY 2016 FINAL RULE

Lamp type	Screened-out technology option	EPCA criteria (X = basis for screening out)			
		Technological feasibility	Practicability to manufacture, install, and service	Adverse impact on product utility	Adverse impacts on health and safety
CFL	Multi-Photon Phosphors	X			
LED	Colloidal Quantum Dot Phosphors	X			
	Improved Emitter Materials	X			

In the January 2016 Final Rule, DOE considered AC LEDs as a design option. 81 FR 580, 592. AC LEDs remove the need for a driver component, potentially reducing efficiency losses. However, in the March 2016 NOPR for general service lamps, DOE screened out this technology option. DOE concluded that because commercial products were only offered by one company, are not available across a range of lumen packages, and are limited to G-shape lamps, the technology option did not meet the criteria of practicability to manufacture, install, and service and adverse impacts on product utility or product availability. 81 FR 14528, 14566 (March 17, 2016). DOE has reviewed the current market and continued to identify only one company that is producing AC LED lamp models. The models are offered with limited characteristics: GU10 base and 400 lumens; candle-shaped and around 260 lumens; and G-shaped and around 290 lumens.

Issue 16: DOE requests feedback on the technological feasibility of AC LED lamp products—including details on shapes, bases, and lumen ranges. DOE also requests information on whether other manufacturers already offer or are planning to introduce AC LED lamps to the market.

Issue 17: DOE requests feedback on what impact, if any, the five screening criteria described in this section would have on each of the technology options listed in Table II.3 of this document with respect to their potential use in CFLKs. Similarly, DOE seeks information regarding how these same criteria would affect any other technology options not already identified in this document with respect to their potential use in CFLKs.

Issue 18: With respect to the screened-out technology options listed in Table II.4 of this document, DOE seeks information on whether these options would, based on current and projected assessments regarding each of them, remain screened out under the five screening criteria described in this section. With respect to each of these technology options, what steps, if any, could be (or have already been) taken to facilitate the introduction of each option as a means to improve the energy performance of CFLKs and the potential to impact consumer utility of the CFLK.

3. Efficiency Analysis

DOE typically uses one of two approaches to develop energy efficiency levels for the engineering analysis: (1) Relying on observed efficiency levels in the market (*i.e.,* the efficiency-level approach), or (2) determining the incremental efficiency improvements associated with incorporating specific design options to a baseline model (*i.e.,* the design-option approach). Using the efficiency-level approach, the efficiency

levels established for the analysis are determined based on the market distribution of existing products (in other words, based on the range of efficiencies and efficiency level ''clusters'' that already exist on the market). Using the design option approach, the efficiency levels established for the analysis are determined through detailed engineering calculations and/or computer simulations of the efficiency improvements from implementing specific design options that have been identified in the technology assessment. DOE may also rely on a combination of these two approaches. For example, the efficiency-level approach (based on actual products on the market) may be extended using the design option approach to interpolate to define ''gap fill'' levels (to bridge large gaps between other identified efficiency levels) and/or to extrapolate to the max-tech level (particularly in cases where the max-tech level exceeds the maximum efficiency level currently available on the market).

In the January 2016 Final Rule DOE used an efficiency-level approach, determining efficiency levels based generally on commercially available lamps that incorporate the design options identified in the technology assessment and screening analysis. 81 FR 580, 592. For each established product class, DOE selects a baseline model as a reference point against which any changes resulting from new or amended energy conservation standards can be measured. The baseline model in each product class represents the characteristics of common or typical products in that class. Typically, a baseline model is one that meets the current minimum energy conservation standards and provides basic consumer utility. The current standards for CFLKs are based on efficacy and are found at 10 CFR 430.32(s)(6).

Issue 19: DOE requests feedback on whether the current established energy conservation standards are appropriate baselines for CFLKs to evaluate whether to amend the current energy conservation standards for these products.

Issue 20: DOE requests data and information regarding the most common models of CFLKs (*i.e.* whether they use lamps or integrated SSL circuitry, the number of light sources, the total lumen output of the fixture, *etc.*). DOE requests information on the percent of CFLKs that have sockets for lamps versus the percent that have integrated SSL circuitry.

Issue 21: DOE requests feedback on the common characteristics of light sources found in CFLKs (*i.e.,* technology, base type, wattage, efficacy, color rendering index (''CRI''), correlated color temperature (''CCT''), and lifetime). DOE requests information on the percent of CFLKs with sockets that are shipped with CFLs versus LED lamps.

Issue 22: DOE requests feedback on the appropriate baseline models for any newly analyzed product classes that are not currently in place, as discussed in section II.B.1 of this document. For newly analyzed product classes, DOE requests energy use data to develop a baseline relationship between energy use and adjusted volume.

In the January 2016 Final Rule, DOE selected a baseline and more-efficacious substitutes taking into consideration two different substitution scenarios: (1) A lamp replacement scenario and (2) a light kit replacement scenario (*i.e.,* accounting for changes to the fixture). In both scenarios, the baseline lamp was kept the same and the baseline fixture was assumed to have the most common total socket number of two for CFLKs. In the lamp replacement scenario, the more-efficacious substitute was required to have the same base type as the baseline lamp and no changes to the fixture were made. In the light kit replacement scenario, a more-efficacious fixture was chosen, allowing for a more-efficacious lamp substitute with a different base type than the baseline lamp and with a different number of sockets than the baseline fixture. For additional discussion of the baseline selected for the January 2016 Final Rule, see chapter 5 of the January 2016 Final Rule TSD. 81 FR 580, 594–595.

In the January 2016 Final Rule, DOE ensured potential substitutions maintained lumen output within 10 percent of the baseline lamp lumen output (for the lamp replacement scenario) and within 10 percent of the baseline fixture lumen output (for the light kit replacement scenario). 81 FR 580, 594. In the January 2016 Final Rule TSD, DOE ensured that a wide variety of design options would be available at all efficacy levels (''ELs'') (*e.g.,* E12, E17, and G9 bases and candle, flame tip, and torpedo shapes). DOE also ensured that dimmable lamps and lamps with a range of CCTs and lumen packages were available at all ELs. Further, DOE confirmed that CFLKs with consumer-replaceable and non-consumer replaceable LED modules and drivers would meet EL 3. See chapter 5 of the January 2016 Final Rule TSD.

In the January 2016 Final Rule, DOE developed a continuous equation to establish ELs, specifying a minimum lamp efficacy for a lumen package. To develop the general form of the equation, DOE evaluated lamps with similar characteristics, such as technology, bulb shape, and lifetime, across a range of lumen outputs. 81 FR 580, 596.

The maximum available efficacies analyzed in the January 2016 Final Rule are provided in Table II.5 and Table II.6 of this document. The maximum available efficacy level is the highest efficacy unit currently available on the market.

TABLE II.5—MAX TECH EFFICACY FROM THE JANUARY 2016 FINAL RULE

[Lamp replacement scenario]

Lamp type	Base type	Bulb shape	Wattage *W*	Initial lumen output *lm*	Efficacy *lm/W*	CRI	CCT *K*	Lamp Lifetime *hr*
LED	E26	A19	8	820	102.5	80	2,700	25,000

TABLE II.6—MAX TECH EFFICACY FROM THE JANUARY 2016 FINAL RULE
[Light Kit Replacement Scenario]

Lamp type	Base type	Bulb shape	Fixture sockets	Lamp watt-age *W*	Fixture wattage *W*	Lamp initial lumen output *lm*	Fixture initial lumen output *lm*	Efficacy *lm/W*	CRI	CCT *K*	Lamp life *hr*
LED	E26	A21	1	15	15	1,600	1,600	106.7	82	2,700	25,000

Issue 23: DOE seeks input on whether the max-tech levels are appropriate and technologically feasible for potential consideration as possible energy conservation standards for the products at issue—and if not, why not.

Issue 24: DOE seeks feedback on what design options would be incorporated at a max-tech efficacy level, and the efficacies associated with those levels. As part of this request, DOE also seeks information as to whether there are limitations on the use of certain combinations of design options.

Issue 25: DOE seeks information on the efficacy of available CFLKs, from baseline model to max tech level, and the percent of CFLKs available at each level of efficacy. DOE also seeks feedback on whether the efficacy distribution varies based on whether the CFLK includes individual lamps or integrated SSL circuitry and whether the efficacy distribution is expected to change over time.

D. Economic Justification

In determining whether a proposed energy conservation standard is economically justified, DOE analyzes, among other things, the potential economic impact on consumers, manufacturers, and the Nation. DOE seeks comment on whether there are economic barriers to the adoption of more-stringent energy conservation standards. DOE also seeks comment and data on any other aspects of its economic justification analysis from the January 2016 Final Rule that may indicate whether a more-stringent energy conservation standard would be economically justified or cost effective.

While DOE's request for information is not limited to the following issues, DOE is particularly interested in comment, information, and data on the following.

1. Cost Analysis

The cost analysis portion of the engineering analysis is conducted using one or a combination of cost approaches. The selection of cost approach depends on a suite of factors, including availability and reliability of public information, characteristics of the regulated product, and the availability and timeliness of purchasing the CFLK on the market. The cost approaches are summarized as follows:

- *Physical teardowns:* Under this approach, DOE physically dismantles a commercially available product, component-by-component, to develop a detailed bill of materials for the product.
- *Catalog teardowns:* In lieu of physically deconstructing a product, DOE identifies each component using parts diagrams (available from manufacturer websites or appliance repair websites, for example) to develop the bill of materials for the product.
- *Price surveys:* If neither a physical nor catalog teardown is feasible (for example, for tightly integrated products such as fluorescent lamps, which are infeasible to disassemble and for which parts diagrams are unavailable) or cost-prohibitive and otherwise impractical (*e.g.* large commercial boilers), DOE conducts price surveys using publicly available pricing data published on major online retailer websites and/or by soliciting prices from distributors and other commercial channels.

In the January 2016 Final Rule TSD, DOE used a price-survey approach to develop consumer prices for the representative lamp unit at each EL. To do so, DOE determined the consumer price of the CFLK and then determined the portion of that price attributable to the lamp packaged with the CFLK. Based on feedback from manufacturer interviews, DOE identified three main distribution channels for CFLKs: Electrical/specialty centers, home centers, and lighting showrooms. DOE compared the consumer prices from each channel to manufacturer-suggested distributor net prices of ceiling fans sold with CFLKs to determine premiums for each distribution channel. Then using estimated shipments going through each channel based on manufacturer interviews, DOE applied the following weightings to develop one premium: Electrical/specialty channel at 12 percent, home center channel at 80 percent, and lighting showroom channel at 8 percent. DOE applied the average shipment-weighted premium to the distributor net prices of the ceiling fans sold with CFLKs to obtain their consumer price. DOE then applied 20 percent to this price to determine the consumer price of just the CFLK. See chapter 7 of the January 2016 Final Rule TSD.

Finally, DOE applied the percentage that comprises the lamp component of the CFLK to the CFLK consumer price. Based on manufacturer feedback and stakeholder comments, DOE applied 15 percent for a CFLK with a 13 W spiral CFL to obtain the consumer price of the lamp component of the CFLK. For other representative lamp units, DOE applied ratios of their consumer prices and the 13 W spiral CFL consumer price. See chapter 7 of the January 2016 Final Rule TSD.

For the light kit fixture scenario, DOE also included the incremental cost due to changes in socket configuration when applicable. 81 FR 580, 598. Based on manufacturer feedback, DOE estimated that medium screw base (E26) sockets cost $0.15 to the manufacturer and GU24 and pin-base sockets cost $0.35 to the manufacturer. See chapter 7 of the January 2016 Final Rule TSD.

For additional discussion regarding the development of end-user prices for the January 2016 Final Rule, see chapter 6 of the January 2016 Final Rule TSD.

Issue 26: DOE requests comments on the whether the described methodology for the pricing analysis is appropriate as well as information on the existence of any distribution channels other than those described and their assigned weighting.

Issue 27: DOE also requests information on the percentage of consumer price the CFLK comprises of a ceiling fan; and the percentage of consumer price the lamp component(s) comprises of a CFLKs and whether they are different for different lamp types (*e.g.,* CFL, LED lamp).

Issue 28: DOE requests information on the consumer price of a socket in a CFLK and whether they are different for different socket types (*e.g.,* E12, GU24, pin-base).

Issue 29: DOE requests information on the difference in cost (if any) between a CFLK providing a certain light output using individual lamps and a CFLK providing the same light output using integrated SSL circuitry. What are the

primary factors affecting the cost of a CFLK using integrated SSL circuitry?

1. Life-Cycle Cost and Payback Period Analysis

DOE conducts the life-cycle cost (''LCC'') and payback period (''PBP'') analysis to evaluate the economic effects of potential energy conservation standards for CFLKs on individual consumers. The effect of new or amended energy conservation standards on individual consumers usually involves a reduction in operating cost and an increase in purchase cost. For any given EL, DOE measures the PBP and the change in LCC relative to an estimated baseline level. The LCC is the total consumer expense of a product over its lifetime, consisting of total installed cost (product price, sales tax, and installation costs) plus operating costs (expenses for energy use, maintenance, and repair). To compute the operating costs, DOE discounts future operating costs to the time of purchase and sums them over the lifetime of the product. The PBP is the estimated amount of time (in years) it takes consumers to recover the increased purchase cost (including installation) of a more-efficient product through lower operating costs. DOE calculates the PBP by dividing the change in purchase cost at higher efficiency levels by the change in annual operating cost for the year that amended or new standards are assumed to take effect.

For each potential standard level, DOE measures the change in LCC based on the estimated change in efficacy distribution in the standards case relative to the estimated efficacy distribution in the no-new-standards case. These efficacy distributions include market trends for products that may exceed the efficacy associated with a given standard level as well as the current energy conservation standards. In contrast, the PBP for a given EL is measured relative to the baseline product.

Table II.7 summarizes the approach and data DOE used to derive inputs to the LCC and PBP calculations for CFLKs in the January 2016 Final Rule. See chapter 8 of the January 2016 Final Rule TSD and its appendices for more detail.

TABLE II.7—SUMMARY OF INPUTS AND METHODS FOR THE LCC AND PBP ANALYSIS IN THE JANUARY 2016 FINAL RULE *

Inputs	Source/method
Product Cost **	Multiplied the weighted-average consumer price of each CFLK lamp and socket (determined in the product price determination) with a scaling factor to account for the total weighted-average CFLK lumen output. For LED lamps, DOE used a price learning analysis to project CFLK lamp prices to the compliance year.
Sales Tax	Derived 2019 population-weighted-average tax values for each state based on Census population projections and sales tax data from Sales Tax Clearinghouse.
Disposal Cost	Assumed 35% of commercial CFLs are disposed of at a cost of $0.70 per CFL. Assumptions based on industry expert feedback and a Massachusetts Department of Environmental Protection mercury lamp recycling rate report.
Annual Energy Use	Derived in the energy use analysis. Varies by geographic location and room type in the residential sector and by building type in the commercial sector.
Energy Prices	Electricity: Based on 2014 marginal electricity price data from the Edison Electric Institute. Variability: Marginal electricity prices vary by season, U.S. region, and baseline electricity consumption level.
Energy Price Trends	Based on *AEO 2015* price forecasts.
Lamp Replacements	For lamp failures during the lifetime of the CFLK, consumers replace lamps with lamp options available in the market that have the same base type and provide a similar lumen output to the initially packaged lamps.
Residual Value	Represents the value of surviving lamps at the end of the CFLK lifetime. DOE discounts the residual value to the start of the analysis period and calculates it based on the remaining lamp's lifetime and price in the year the CFLK is retired.
Product Lifetime	Based on a ceiling fan lifetime distribution, with a mean of 13.8 years.
Discount Rates	Approach involves identifying all possible debt or asset classes that might be used to purchase the considered appliances, or might be affected indirectly. Primary data source was the Federal Reserve Board's Survey of Consumer Finances.
Efficacy Distribution	Estimated by the market-share module of shipments model.

* See chapter 8 of the January 2016 Final Rule TSD for references for the data sources mentioned in this table.
** DOE did not take into account installation cost as one of the total installed cost inputs. DOE assumed that the installation cost, which represents all costs required to install the CFLK, was not affected by changes in product efficacy and was therefore the same for all ELs for both the residential and commercial sectors.

Issue 30: DOE requests comment on whether the methodology described in the January 2016 Final Rule is appropriate.

Issue 31: DOE requests comments on whether the inputs described in Table II.7 of this document need to be changed beyond updating to a more recent version of the source cited in the table if an updated version exists.

3. Manufacturer Impact Analysis

The purpose of the manufacturer impact analysis (''MIA'') is to estimate the financial impact of amended energy conservation standards on manufacturers of CFLKs, and to evaluate the potential impact of such standards on direct employment and manufacturing capacity. The MIA includes both quantitative and qualitative aspects. The quantitative part of the MIA primarily relies on the Government Regulatory Impact Model (''GRIM''), an industry cash-flow model adapted for the product in this analysis, with the key output of industry net present value (''INPV''). The qualitative part of the MIA addresses the potential impacts of energy conservation standards on manufacturing capacity and industry competition, as well as factors such as product characteristics, impacts on particular subgroups of firms, and important market and product trends.

As part of the MIA, DOE analyzes impacts of amended energy conservation standards on subgroups of manufacturers of covered products, including small business manufacturers. DOE uses the Small Business Administration's (''SBA's'') small

business size standards to determine whether manufacturers qualify as small businesses, which are listed by the applicable North American Industry Classification System (''NAICS'') code.[10] Manufacturing of CFLKs is classified under NAICS 335210, ''Small Electrical Appliance Manufacturing,'' and the SBA sets a threshold of 1,500 employees or less for a domestic entity to be considered as a small business. This employee threshold includes all employees in a business' parent company and any other subsidiaries.

One aspect of assessing manufacturer burden involves examining the cumulative impact of multiple DOE standards and the product-specific regulatory actions of other Federal agencies that affect the manufacturers of a covered product or equipment. While any one regulation may not impose a significant burden on manufacturers, the combined effects of several existing or impending regulations may have serious consequences for some manufacturers, groups of manufacturers, or an entire industry. Assessing the impact of a single regulation may overlook this cumulative regulatory burden. For these reasons, DOE conducts an analysis of cumulative regulatory burden as part of its rulemakings pertaining to appliance efficiency.

Issue 32: To the extent feasible, DOE seeks the names and contact information of any domestic or foreign-based manufacturers that distribute CFLKs in the United States.

Issue 33: DOE identifies small businesses as a subgroup of manufacturers that could be disproportionally impacted by amended energy conservation standards. DOE requests the names and contact information of small business manufacturers, as defined by the SBA's size threshold, of CFLKs that manufacture products in the United States. In addition, DOE requests comment on any other manufacturer subgroups that could be disproportionally impacted by amended energy conservation standards. DOE requests feedback on any potential approaches that could be considered to address impacts on manufacturers, including small businesses.

Issue 34: DOE requests information regarding the cumulative regulatory burden impacts on manufacturers of CFLKs associated with (1) other DOE standards applying to different products that these manufacturers may also make and (2) product-specific regulatory actions of other Federal agencies. DOE also requests comment on its methodology for computing cumulative regulatory burden and whether there are any flexibilities it can consider that would reduce this burden while remaining consistent with the requirements of EPCA.

[10] Available online at *https://www.sba.gov/document/support—table-size-standards.*

III. Submission of Comments

DOE invites all interested parties to submit in writing by the date under the **DATES** heading, comments and information on matters addressed in this notification and on other matters relevant to DOE's early assessment of whether more-stringent energy conservation standards are warranted for ceiling fan light kits.

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

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

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

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

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

Include contact information each time you submit comments, data, documents, and other information to DOE. Faxes will not be accepted.

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

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

Confidential Business Information. According to 10 CFR 1004.11, any person submitting information that he or she believes to be confidential and exempt by law from public disclosure should submit via email two well-marked copies: One copy of the document marked confidential including all the information believed to be confidential, and one copy of the document marked ''non-confidential'' with the information believed to be confidential deleted. DOE will make its own determination about the confidential status of the information and treat it according to its determination.

It is DOE's policy that all comments may be included in the public docket,

without change and as received, including any personal information provided in the comments (except information deemed to be exempt from public disclosure).

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

Signing Authority

This document of the Department of Energy was signed on May 26, 2021, by Kelly Speakes-Backman, Principal Deputy Assistant Secretary and Acting Assistant Secretary for Energy Efficiency and Renewable Energy, pursuant to delegated authority from the Secretary of Energy. That document with the original signature and date is maintained by DOE. For administrative purposes only, and in compliance with requirements of the Office of the Federal Register, the undersigned DOE Federal Register Liaison Officer has been authorized to sign and submit the document in electronic format for publication, as an official document of the Department of Energy. This administrative process in no way alters the legal effect of this document upon publication in the **Federal Register**.

Signed in Washington, DC, on May 27, 2021.

Treena V. Garrett,

Federal Register Liaison Officer, U.S. Department of Energy.

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DEPARTMENT OF ENERGY

10 CFR Part 430

[EERE–2019–BT–STD–0043]

RIN 1904–AE61

Energy Conservation Program: Energy Conservation Standards for Consumer Products; Early Assessment Review; Dehumidifiers

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

ACTION: Request for information.

SUMMARY: The U.S. Department of Energy (''DOE'') is undertaking an early assessment review for amended energy conservation standards for dehumidifiers to determine whether to amend applicable energy conservation standards for this product. Specifically, through this request for information (''RFI''), DOE seeks data and information that could enable the agency to determine whether DOE should propose a ''no-new-standard'' determination because a more stringent standard: Would not result in a significant savings of energy; is not technologically feasible; is not economically justified; or any combination of the foregoing. DOE welcomes written comments from the public on any subject within the scope of this document (including those topics not specifically raised in this RFI), as well as the submission of data and other relevant information concerning this early assessment review.

DATES: Written comments and information will be accepted on or before July 6, 2021.

ADDRESSES: Interested persons are encouraged to submit comments using the Federal eRulemaking Portal at *https://www.regulations.gov.* Follow the instructions for submitting comments. Alternatively, interested persons may submit comments, identified by docket number EERE–2019–BT–STD–0043, by any of the following methods:

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

2. *Email:* To *Dehumidifiers2019STD0043@ee.doe.gov.* Include docket number EERE–2019–BT–STD–0043 in the subject line of the message.

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

Although DOE has routinely accepted public comment submissions through a variety of mechanism, including the Federal eRulemaking Portal, email, postal mail, or hand delivery/courier, the Department has found it necessary to make temporary modifications to the comment submission process in light of the ongoing Covid–19 pandemic. DOE is currently suspending receipt of public comments via postal mail and hand delivery/courier. If a commenter finds that this change poses an undue hardship, please contact Appliance Standards Program staff at (202) 586–1445 to discuss the need for alternative arrangements. Once the Covid–19 pandemic health emergency is resolved, DOE anticipates resuming all of its regular options for public comment submission, including postal mail and hand delivery/courier.

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

The docket web page can be found at *https://www.regulations.gov/#!docketDetail;D=EERE-2019-BT-STD-0043.* The docket web page contains instructions on how to access all documents, including public comments, in the docket. See section III for information on how to submit comments through *https://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT:

Mr. Bryan Berringer, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Building Technologies Office, EE–5B, 1000 Independence Avenue SW, Washington, DC 20585–0121. Telephone: (202) 586–0371. Email: *ApplianceStandardsQuestions@ee.doe.gov.*

Mr. Pete Cochran, U.S. Department of Energy, Office of the General Counsel, GC–33, 1000 Independence Avenue SW, Washington, DC 20585–0121. Telephone: (202) 586–9496. Email: *Peter.Cochran@hq.doe.gov.*

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

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Introduction
A. Authority
B. Rulemaking History
II. Request for Information
A. Significant Savings of Energy
B. Technological Feasibility
C. Economic Justification
III. Submission of Comments

I. Introduction

DOE has established an early assessment review process to conduct a more focused analysis of a specific set of facts or circumstances that would allow DOE to determine that, based on one or more statutory criteria, a new or amended energy conservation standard is not warranted. The purpose of this review is to limit the resources, from both DOE and stakeholders, committed to rulemakings that will not satisfy the requirements in Energy Policy and Conservation Act, as amended (''EPCA'') [1] that a new or amended energy conservation standard save a significant amount of energy, and be economically justified and technologically feasible. *See* 85 FR 8626, 8653–8654 (Feb. 14, 2020).

As part of the early assessment, DOE publishes a RFI in the **Federal Register**, announcing that DOE is considering initiating a rulemaking proceeding and soliciting comments, data, and information on whether a new or amended energy conservation standard would save a significant amount of energy and be technologically feasible and economically justified. Based on the information received in response to the RFI and DOE's own analysis, DOE will determine whether to proceed with a rulemaking for a new or amended energy conservation standard.

If DOE makes an initial determination based upon available evidence that a new or amended energy conservation standard would not meet the applicable statutory criteria, DOE would engage in notice and comment rulemaking before issuing a final determination that new or amended energy conservation standards are not warranted. Conversely, if DOE makes an initial determination that a new or amended energy conservation standard would satisfy the applicable statutory criteria or DOE's analysis is inconclusive, DOE would undertake the preliminary stages of a rulemaking to issue a new or amended energy conservation standard. Beginning such a rulemaking, however, would not preclude DOE from later making a determination that a new or amended energy conservation standard cannot satisfy the requirements in the EPCA, based upon the full suite of DOE's analyses. *See* 85 FR 8626, 8654 (Feb. 14, 2020).

A. Authority

EPCA, among other things, authorizes DOE to regulate the energy efficiency of a number of consumer products and certain industrial equipment. (42 U.S.C. 6291–6317) Title III, Part B [2] of EPCA established the Energy Conservation Program for Consumer Products Other Than Automobiles. These products include dehumidifiers, the subject of this document. (42 U.S.C. 6295(cc))

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

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

EPCA also requires that, not later than six years after the issuance of any final rule establishing or amending a standard, DOE evaluate the energy conservation standards for each type of covered product, including those at issue here, and publish either a notification of determination that the standards do not need to be amended, or a notice of proposed rulemaking (''NOPR'') that includes new proposed energy conservation standards (proceeding to a final rule, as appropriate). (42 U.S.C. 6295(m)(1))

DOE is publishing this RFI to collect data and information to inform its decision consistent with its obligations under EPCA.

B. Rulemaking History

On June 13, 2016, DOE published a final rule establishing the current energy conservations for dehumidifiers, and for which compliance has been required beginning June 13, 2019. 81 FR 38338 (''June 2016 Final Rule''). The current energy conservation standards are located in title 10 of the Code of Federal Regulations (''CFR'') part 430, section 32, subsection v. The currently applicable DOE test procedure for dehumidifiers appears at 10 CFR part 430, subpart B, appendix X1 (''Appendix X1'').

II. Request for Information

DOE is publishing this RFI to collect data and information during the early assessment review to inform its decision, consistent with its obligations under EPCA, as to whether the Department should proceed with an energy conservation standards rulemaking. Accordingly, in the following sections, DOE has identified specific issues on which it seeks input to aid in its analysis of whether an amended standard for dehumidifiers would not save a significant amount of energy or be technologically feasible or economically justified. In particular, DOE is interested in any information indicating that there has not been sufficient technological or market changes since DOE last conducted an energy conservation standards rulemaking analysis for dehumidifiers to suggest a more-stringent standard could satisfy these criteria. DOE also welcomes comments on other issues relevant to its early assessment that may not specifically be identified in this document.

A. Technological Feasibility

During the June 2016 Final Rule, DOE considered a number of technology options that manufacturers could use to reduce energy consumption in dehumidifiers. DOE seeks comment on any changes to these technology options that could affect whether DOE could propose a ''no-new-standards'' determination, such as an insignificant increase in the range of efficiencies and performance characteristics of these technology options. DOE also seeks comment on whether there are any other technology options that DOE should consider in its analysis.

While DOE's request for information is not limited to the following issues, DOE is particularly interested in comment, information, and data on the following.

Issue 1: DOE seeks information on the extent of availability and efficiency of dehumidifiers with variable-speed compressors. At the time of the June 2016 Final Rule, variable-speed dehumidifiers had not yet been implemented in residential dehumidifiers, limiting available

[1] All references to EPCA in this document refer to the statute as amended through the Energy Act of 2020, Public Law 116–260 (Dec. 27, 2020).

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

information on the potential efficiency improvements achievable through their use.

Issue 2: DOE seeks input on whether the maximum available efficiency levels presented below are appropriate and technologically feasible for potential consideration as possible energy conservation standards for the products at issue—and if not, why not.

Maximum Efficiency Levels Currently Available

- Portable, ≤25.00 pints/day, 1.70 L/kWh
- Portable, 25.01–50.00 pints/day, 1.9 L/kWh
- Portable, ≥50.01 pints/day, 3.30 L/kWh
- Whole-home, case volume ≤8.0 cubic feet, 2.09 L/kWh
- Whole-home, case volume >8.0 cubic feet, 3.30 L/kWh

Source: DOE Compliance Certification Management System (''CCMS'') database, as of December 7, 2020.

Issue 3: DOE requests comment on design options that may not be applicable to (or incompatible with) specific product classes.

B. Significant Savings of Energy

On June 13, 2016, DOE established energy conservation standards for dehumidifiers that are expected to result in 0.10 quadrillion Btu (''quads'') site energy savings, or 6.7 percent relative to the expected energy use without amending the standards, over a 30-year period.[3] 81 FR 38338, 38340. Additionally, in the June 2016 Final Rule, DOE estimated that an energy conservation standard established at an energy efficiency level equivalent to that achieved using the maximum available technology (''max-tech'') would have resulted in 0.19 additional quads of site energy savings. This represents a 13.0 percent reduction in energy use compared to the estimated national energy use at the established energy conservation standard level. If DOE determines that a more-stringent energy conservation standard would not result in an additional 0.3 quads of site energy savings or an additional 10-percent reduction in site energy use over a 30-year period, DOE would propose to make a no-new-standards determination. DOE seeks comment on energy savings that could be expected from more-stringent standards for dehumidifiers.

C. Economic Justification

In determining whether a proposed energy conservation standard is economically justified, DOE analyzes, among other things, the potential economic impact on consumers, manufacturers, and the Nation. DOE seeks comment on whether there are economic barriers to the adoption of more-stringent energy conservation standards. DOE also seeks comment and data on any other aspects of its economic justification analysis from the June 2016 Final Rule that may indicate whether a more-stringent energy conservation standard would not be economically justified or cost effective.

While DOE's request for information is not limited to the following issues, DOE is particularly interested in comment, information, and data on the following.

Issue 4: DOE seeks information on the cost of implementing variable-speed compressors in dehumidifiers.

III. Submission of Comments

DOE invites all interested parties to submit in writing by July 6, 2021, comments and information on matters addressed in this notice and on other matters relevant to DOE's early assessment of whether more-stringent energy conservation standards are not warranted for dehumidifiers.

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

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

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

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

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

Include contact information each time you submit comments, data, documents, and other information to DOE. Faxes will not be accepted.

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

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

[3] Energy savings values for the adopted standard reported in 81 FR 38338, 38340 (0.30 quads savings, or 7.4 percent reduction in energy use relative to the expected energy use without amending standards) are evaluated based on the full-fuel cycle.

Confidential Business Information. According to 10 CFR 1004.11, any person submitting information that he or she believes to be confidential and exempt by law from public disclosure should submit via email two well-marked copies: One copy of the document marked ''confidential'' including all the information believed to be confidential, and one copy of the document marked ''non-confidential'' with the information believed to be confidential deleted. Submit these documents via email to *Dehumidifiers2019STD0043@ee.doe.gov.* DOE will make its own determination about the confidential status of the information and treat it according to its determination.

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

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

Signing Authority

This document of the Department of Energy was signed on May 21, 2021, by Kelly Speakes-Backman, Principal Deputy Assistant Secretary and Acting Assistant Secretary for Energy Efficiency and Renewable Energy, pursuant to delegated authority from the Secretary of Energy. That document with the original signature and date is maintained by DOE. For administrative purposes only, and in compliance with requirements of the Office of the Federal Register, the undersigned DOE Federal Register Liaison Officer has been authorized to sign and submit the document in electronic format for publication, as an official document of the Department of Energy. This administrative process in no way alters the legal effect of this document upon publication in the **Federal Register**.

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

Treena V. Garrett,

Federal Register Liaison Officer, U.S. Department of Energy.

[FR Doc. 2021–11253 Filed 6–3–21; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2021–0226; Airspace Docket No. 20–AAL–2]

RIN 2120–AA66

Proposed Amendment of Class D and Class E Airspace, and Removal of Class E Airspace; Kodiak, AK

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This action proposes to modify the Class D airspace at Kodiak Airport, Kodiak, AK. This action also proposes to remove the Class E airspace, designated as an extension to a Class D or Class E surface area, east of the airport. Further, this action proposes to modify the Class E airspace extending upward from 700 feet above the surface by increasing the size of the area. Finally, this action proposes to update the geographic coordinates in the third line of the Class D text header and update the term ''Airport/Facility Directory'' to ''Chart Supplement'' in the last sentence of the Class D airspace description. This action would ensure the safety and management of instrument flight rules (IFR) operations at the airport.

DATES: Comments must be received on or before July 19, 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: 1–800–647–5527, or (202) 366–9826. You must identify FAA Docket No. FAA–2021–0226; Airspace Docket No. 20–AAL–2, 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 Airspace Policy Group, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591; telephone: (202) 267–8783. The Order is also available for inspection at the National Archives and Records Administration (NARA). For information on the availability of FAA Order 7400.11E at NARA, email *fedreg.legal@nara.gov* or go to *https://www.archives.gov/federal-register/cfr/ibr-locations.html.*

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

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

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

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 and be submitted in triplicate to the address listed above. Persons wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. FAA–2021–0226; Airspace Docket No. 20–AAL–2''. The postcard

will be date/time stamped and returned to the commenter.

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

Availability of NPRMs

An electronic copy of this document may be downloaded through the internet at *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 the **ADDRESSES** section for the 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 Northwest Mountain Regional Office of the Federal Aviation Administration, Air Traffic Organization, Western Service Center, Operations Support Group, 2200 S 216th Street, Des Moines, WA 98198.

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.

The Proposal

The FAA is proposing an amendment to 14 CFR part 71 by modifying the Class D airspace at Kodiak Airport, Kodiak, AK. The Class D is not properly sized to contain departing IFR aircraft to 700 feet above the surface or arriving IFR aircraft descending below 1,000 feet above the surface. To properly contain IFR departures, the Class D radius should be increased from 3.1 miles to 4.4 miles, excluding the mountainous terrain west and northwest of the airport and the airspace around Trident Basin Airport.

Additionally, this action proposes to remove the Class E airspace, designated as an extension to a Class D or Class E surface area, east of the airport. This airspace is no longer required to contain arriving IFR aircraft.

Further, this action proposes to modify the Class E airspace extending upward from 700 feet above the surface, by increasing the size of the area east of the airport to properly contain IFR aircraft performing the procedure turn maneuver for the VOR RWY 26 approach.

Lastly, this action proposes to update the geographic coordinates in the third line of the Class D text header to ''lat. 57°44′59″ N, long. 152°29′38″ W'' and update the term ''Airport/Facility Directory'' to ''Chart Supplement'' in the last sentence of the Class D airspace description.

Class D, Class E4, and Class E5 airspace designations are published in paragraphs 5000, 6004, and 6005, respectively, of FAA Order 7400.11E, dated July 21, 2020, and effective September 15, 2020, which is incorporated by reference in 14 CFR 71.1. The Class D and Class E airspace designations listed in this document will be published subsequently in the Order.

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

Regulatory Notices and Analyses

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

Environmental Review

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

Accordingly, pursuant to the authority delegated to me, 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 14 CFR part 71 continues to read as follows:

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

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of FAA Order 7400.11E, Airspace Designations and Reporting Points, dated July 21, 2020, and effective September 15, 2020, is amended as follows:

Paragraph 5000 Class D Airspace.

* * * * *

AAL AK D Kodiak, AK [Amended]

Kodiak Airport, AK
(Lat. 57°44′59″ N, long. 152°29′38″ W)
Trident Basin Airport, AK
(Lat. 57°46′51″ N, long. 152°23′29″ W)

That airspace extending upward from the surface to and including 2,600 feet MSL within a 4.4-mile radius of the airport, and within 1 mile each side of the 091° bearing from the airport, extending from the 4.4-mile radius to 6.1 miles east of Kodiak Airport, excluding that airspace west and northwest of a line beginning at the 228° bearing from Kodiak Airport, to the 308° bearing at 2.9 miles from Kodiak Airport, to the 012° bearing from Kodiak Airport, and excluding that airspace from the 024° bearing from the Kodiak Airport to the 325° bearing at 1.0 mile from Trident Basin Airport, and excluding that airspace within a 1.0-mile radius of Trident Basin Airport from the 325° bearing from Trident Basin Airport counterclockwise to the 250° bearing from Trident Basin airport, and within a 0.3-mile radius of Trident Basin Airport from the 250° bearing from Trident Basin Airport counterclockwise to the 119° bearing from the Trident Basin Airport, and from the 119° bearing at 0.3 miles from Trident Basin Airport to the 072° bearing at 4.4 miles from Kodiak Airport. This Class D airspace area is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Chart Supplement.

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

* * * * *

AAL AK E4 Kodiak, AK [Removed]

Kodiak Airport, AK
(Lat. 57°45′00″ N, long. 152°29′38″ W)

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

* * * * *

AAL AK E5 Kodiak, AK [Amended]

Kodiak Airport, AK
(Lat. 57°44′59″ N, long. 152°29′38″ W)

That airspace extending upward from 700 feet above the surface within a 6.9-mile radius of the airport, and within 8 miles north and 4.1 miles south of the 071°bearing from the airport, extending from the 6.9-mile radius and extending from 5.2 miles east of the airport to 21.2 miles east of the airport, excluding that airspace extending beyond 12 miles of the shoreline; and that airspace extending upward from 1,200 feet above the surface within a 73-mile radius of the Kodiak Airport, AK, excluding that airspace extending beyond 12 miles of the shoreline.

Issued in Des Moines, Washington, on May 27, 2021.

B.G. Chew,

Acting Group Manager, Operations Support Group, Western Service Center.

[FR Doc. 2021–11668 Filed 6–3–21; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

Proposed Establishment of Class C Airspace at Harrisburg International Airport, PA; Public Meeting

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

ACTION: Notification of meeting.

SUMMARY: This document announces a fact-finding informal airspace meeting regarding a plan to establish Class C Airspace at Harrisburg International Airport, PA. The purpose of the meeting is to solicit aeronautical comments on the proposal's effects on local aviation operations. All comments received during the meeting, and the subsequent comment period, will be considered prior to the issuance of a notice of proposed rulemaking.

DATES: The meeting will be held on Wednesday, August 18, 2021, from 6:00 p.m. to 8:00 p.m. (Eastern Time). Comments must be received on or before September 18, 2021.

ADDRESSES: This will be a virtual informal airspace meeting using the Zoom teleconferencing tool. The meeting will also be available to watch on the FAA's Facebook, Twitter, and YouTube social media channels.

Send comments on the proposal, in triplicate, to: Matthew Cathcart, Acting Manager, Operations Support Group, Eastern Service Area, Air Traffic Organization, Federal Aviation Administration, 1701 Columbia Avenue, College Park, GA 30337; or via email to: *9-AJO-MDT-ClassC-Airspace-Comments@faa.gov.*

FOR FURTHER INFORMATION CONTACT: Trevor Catanese, Acting Manager, Harrisburg Airport Traffic Control Tower, Building 511 Airport Drive, Middletown, PA 17057. Telephone: (717) 948–9180.

SUPPLEMENTARY INFORMATION:

Meeting Procedures

The meeting will provide interested parties an opportunity to present views, recommendations, and comments on the proposed airspace.

(a) Registration: To attend the meeting, the public can register here: *https://zoom.us/webinar/register/WN_XJe2ZgfQQB2Kr2;WbEIKWIw.*

(b) The meeting will be open to all persons on a space-available basis. There will be no admission fee or other charge to attend and participate. The meeting will be informal in nature and will be conducted by one or more representatives of the FAA Eastern Service Area. A representative from the FAA will present a briefing on the planned airspace modifications.

(c) Each participant will be given an opportunity to deliver comments or make a presentation, although a time limit may be imposed to accommodate closing times. Only comments concerning the plan to establish the Harrisburg Class C airspace area will be accepted.

(d) Each person wishing to make a presentation will be asked to note their intent when registering for the meeting so those time frames can be established. This meeting will not be adjourned until everyone registered to speak has had an opportunity to address the panel. This meeting may be adjourned at any time if all persons present have had an opportunity to speak.

(e) Position papers or other handout material relating to the substance of the meeting will be accepted. Participants submitting papers or handout materials should send them to the mail or email address noted in the **ADDRESSES** section, above.

(f) This meeting will not be formally recorded. However, a summary of the comments made at the meeting will be filed in the rulemaking docket.

Information gathered through this meeting will assist the FAA in drafting a notice of proposed rulemaking (NPRM) that would be published in the **Federal Register**. The public will be afforded the opportunity to comment on any NPRM published on this matter.

A graphic depiction of the proposed airspace modifications may be viewed at the following URL: *https://www.faa.gov/air_traffic/community_involvement/mdt/.*

Agenda for the Meeting

—Presentation of Meeting Procedures
—Informal Presentation of the planned Class C Airspace area
—Public Presentations and Discussions
—Closing Comments

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.

Issued in Washington, DC, on May 28, 2021.

George Gonzalez,

Acting Manager, Rules and Regulations Group.

[FR Doc. 2021–11654 Filed 6–3–21; 8:45 am]

BILLING CODE 4910–13–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 64

[CG Docket Nos. 03–123 and 10–51; FCC 21–61; FR ID 29574]

Video Relay Service Compensation

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: In this document, the Federal Communications Commission (FCC or Commission) seeks comment on the adoption of compensation rates for Telecommunications Relay Services (TRS) Fund support of providers of video relay service (VRS). Because the compensation rates now in effect will be expiring, the adoption of new compensation rates is necessary so that VRS providers can continue to provide service and be compensated.

ADDRESSES: You may submit comments, identified by CG Docket Nos. 03–123 and 10–51, by either of the following methods:

- *Federal Communications Commission's Website: https://www.fcc.gov/ecfs/filings.* Follow the instructions for submitting comments.
- *Paper Filers:* Parties who choose to file by paper must file an original and

one copy of each filing. Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail. Currently, the Commission does not accept any hand delivered or messenger delivered filings as a temporary measure taken to help protect the health and safety of individuals, and to mitigate the transmission of COVID–19. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.

For detailed instructions for submitting comments and additional information on the rulemaking process, *see* document FCC 21–61 at *https://docs.fcc.gov/public/attachments/FCC-21-61A1.pdf.*

FOR FURTHER INFORMATION CONTACT: Michael Scott, Consumer and Governmental Affairs Bureau, at (202) 418–1264, or email *Michael.Scott@fcc.gov.*

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rulemaking (*NPRM*), document FCC 21–61, adopted on May 20, 2021, released on May 21, 2021, in CG Docket Nos. 03–123 and 10–51. The full text of document FCC 21–61 is available for public inspection and copying via the Commission's Electronic Comment Filing System (ECFS).

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.

This proceeding shall be treated as a ''permit-but-disclose'' proceeding in accordance with the Commission's *ex parte* rules. 47 CFR 1.1200 *et seq.* Persons making *ex parte* presentations must file a copy of any written presentation or a memorandum summarizing any oral presentation within two business days after the presentation (unless a different deadline applicable to the Sunshine period applies). Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentation must (1) list all persons attending or otherwise participating in the meeting at which the *ex parte* presentation was made, and (2) summarize all data presented and arguments made during the presentation. If the presentation consisted in whole or in part of the presentation of data or arguments already reflected in the presenter's written comments, memoranda, or other filings in the proceeding, the presenter may provide citations to such data or arguments in his or her prior comments, memoranda, or other filings (specifying the relevant page and/or paragraph numbers where such data or arguments can be found) in lieu of summarizing them in the memorandum. Documents shown or given to Commission staff during *ex parte* meetings are deemed to be written *ex parte* presentations and must be filed consistent with rule 1.1206(b). In proceedings governed by rule 1.49(f) or for which the Commission has made available a method of electronic filing, written *ex parte* presentations and memoranda summarizing oral *ex parte* presentations, and all attachments thereto, must be filed through the electronic comment filing system available for that proceeding, and must be filed in their native format (*e.g.,* .doc, .xml, .ppt, searchable .pdf). Participants in this proceeding should familiarize themselves with the Commission's *ex parte* rules.

Initial Paperwork Reduction Act of 1995 Analysis

Document FCC 21–61 seeks comment on proposed rule amendments that may result in modified information collection requirements. If the Commission adopts any modified information collection requirements, the Commission will publish another document in the **Federal Register** inviting the public to comment on the requirements, as required by the Paperwork Reduction Act. Public Law 104–13; 44 U.S.C. 3501–3520.

In addition, pursuant to the Small Business Paperwork Relief Act of 2002, the Commission seeks comment on how it might further reduce the information collection burden for small business concerns with fewer than 25 employees. Public Law 107–198; 44 U.S.C. 3506(c)(4).

Synopsis

1. In document FCC 21–61, the Commission seeks comment on the adoption of compensation rates for TRS Fund support of providers of VRS.

2. Section 225 of the Communications Act of 1934, as amended (the Act), 47 U.S.C. 225, requires the Commission to ensure the availability of TRS to persons who are deaf, hard of hearing, deafblind, or have speech disabilities, ''to the extent possible and in the most efficient manner.'' TRS are defined in section 225 of the Act as ''telephone transmission services'' enabling such persons to communicate by wire or radio ''in a manner that is functionally equivalent to the ability of [a person without hearing or speech disabilities] to communicate using voice communication services.'' VRS is a form of TRS that allows people with hearing or speech disabilities who use sign language to communicate with voice telephone users through video equipment. VRS is supported entirely by the Interstate TRS Fund (TRS Fund), and VRS providers are paid compensation for the provision of VRS in accordance with the Commission's rules and orders.

3. In 2007, the Commission introduced a tiered rate structure for compensating VRS providers, to reflect the per-minute cost differentials among VRS providers and to ensure both that, in furtherance of promoting competition, the newer providers would cover their costs, and the larger and more established providers were not overcompensated due to economies of scale. Under a tiered rate structure, a VRS provider's monthly compensation payment is calculated based on the application of different rates to specified ''tiers'' of minutes. The highest rate is applied to an initial tier of minutes up to a defined maximum number, a lower rate is applied to the next tier, again up to a second defined maximum number of minutes, and a still lower rate is applied to any minutes in excess of the second maximum. Since 2007, the Commission has periodically modified the tier structure and rates to align them more closely with the actual costs incurred by providers of varying size and levels of usage.

4. In 2013, the Commission made numerous regulatory changes affecting the VRS program. The Commission directed the Managing Director to contract with a neutral third party to build, operate, and maintain a video communications service platform, which would enable smaller VRS providers to compete more effectively, without having to operate their own service platforms. The Commission also expected that the development of a standard user-device interface would make it easier for smaller providers to compete for customers without having to replace the free devices routinely distributed by the largest VRS provider. After completing such structural reforms, the Commission anticipated being able to transition from the tiered rate structure to a single compensation rate for each element of the relay service. The Commission sought to align annual TRS Fund expenditures more closely with allowable provider costs. The Commission adopted a four-year interim compensation plan, whereby all the tiered rates would be reduced in stages on a ''glide path'' toward closer

alignment with the weighted-average cost of providing VRS.

5. In 2017, the Commission reassessed its VRS compensation policy in light of intervening developments. The neutral VRS platform had proved to be impracticable. To the extent that the 2013 reforms had been implemented, they had not changed market conditions sufficiently to justify adoption of a single compensation rate. Accordingly, the Commission chose to defer consideration of major changes in the compensation system. Instead, to preserve choice among suppliers for VRS users, the Commission decided to maintain tiered compensation rates for the next four years. The Commission adopted a 3-tier rate structure for the four-year period and added an emergent rate to the tiered rate structure applicable to VRS providers with no more than 500,000 total monthly minutes.

6. In setting VRS compensation for Fund Year 2021–22 and beyond, the Commission proposes to continue using a tiered rate structure. The Commission seeks comment on the costs and benefits of this proposal and on the underlying rationale, discussed below.

7. First, developments over the last four years do not appear to warrant reconsideration of the Commission's 2017 assessment that the expectations and assumptions underlying the 2013 proposal to transition away from tiered compensation rates have not been borne out by experience. The reforms introduced in 2013 appear to have run their course, and further competitive improvements resulting from their implementation do not seem likely.

8. Second, certain fundamental facts also appear unlikely to change. VRS addresses a limited segment of the communications marketplace. As a result, there are built-in limitations on total demand for VRS, which appears to have stabilized relative to the high growth rates that occurred 10–15 years ago. Further, the Commission is unaware of any innovations substantial enough to cause a major change in the economics of providing VRS in the foreseeable future.

9. Third, in light of the above, there appears to be little reason to expect major changes in most VRS providers' relative per-minute costs. Today, there are only four certified VRS providers. No new entrants have sought certification to provide VRS since 2011. The current providers continue to operate at dramatically different scales, and there continues to be vast differences in the per-minute costs of VRS providers.

10. Notwithstanding the foregoing limitations, the Commission sees no reason to change the VRS compensation policy objectives the Commission has long pursued: (1) To continue bringing total TRS Fund payments into closer alignment with allowable costs, and (2) to preserve and promote quality-of-service competition among multiple providers. By offering VRS users a choice among multiple providers, the Commission has found, it can most effectively carry out the statutory mandate to ensure that ''functionally equivalent'' VRS is available to all eligible individuals, ''to the extent possible and in the most efficient manner,'' in accordance with the Commission's minimum TRS standards and subject to rules that ''do not discourage or impair the development of improved technology.'' Enabling multiple VRS providers to compete for customers based on service quality, the Commission has found, will best ensure that: (1) Diverse service offerings are available, analogous to those afforded voice service users; (2) niche services are provided to meet the needs of certain segments of the sign language-using population, such as individuals who speak Spanish or are deafblind; and (3) VRS providers have incentives to maintain high standards of service quality and improve their VRS offerings. It might be less costly in the short run to set TRS Fund compensation in such a way that only the lowest-cost VRS provider can continue offering service. However, the Commission continues to believe that in the long run, the removal of competitive choices risks degradation of service quality and elimination of diverse offerings, both of which are needed for functionally equivalent service to all eligible users. And, because ''efficient service is not just about cost but also quality,'' *Sorenson Communications, LLC* v. *FCC,* 897 F.3d 214, 228 (D.C. Cir. 2018), the Commission also believes that a policy of maintaining a choice of service offerings can be pursued consistently with the mandate that TRS be made available ''in the most efficient manner.'' 47 U.S.C. 225(b)(1). As the D.C. Circuit has explained, ''competition promotes efficiency by preventing subpar service from a monopolist who has no fear of losing customers; *i.e.,* it promotes compliance with the service quality required by the mandatory minimum standards.'' *Sorenson* at 229. The Commission seeks comment on these beliefs.

11. Accordingly, in setting compensation policy for the next period, under the current regulatory structure, the Commission tentatively concludes that it will best serve the purposes of section 225 of the Act if it structures VRS compensation to continue supporting an ecosystem in which multiple VRS providers can compete for minutes of use based on quality of service. The Commission seeks comment on this tentative conclusion and the premises set forth above, as well as any relevant data. The Commission also seeks comment on how best to set VRS compensation to promote the above benefits of allowing consumers a choice of VRS providers. Which past measures have succeeded or failed in this regard? What should the Commission's role be, if any, in supporting more effective quality-of-service competition?

12. The Commission invites commenters to suggest alternatives to retaining a tiered-rate compensation methodology. The Commission urges commenters advocating alternatives to explain their proposals in detail, including how such proposals can deliver the benefits that the Commission has found are achievable through VRS competition (*i.e.,* making functionally equivalent TRS available to all eligible individuals in the most efficient manner, in accordance with minimum TRS standards, without discouraging or impairing the development of improved technology).

Alternative Approaches for Setting Tiered Compensation Rates

13. The Commission seeks comment on two overarching issues. First, should it adopt modified VRS compensation rates at this time, or ''freeze'' the current rates until a reliable, post-COVID–19 pandemic baseline for cost and demand has been established? Second, if the Commission decides to move forward with rate-setting at this time, should the Commission retain the current setup, with an emergent rate and the current tier structure, or should it eliminate the emergent rate and adopt a modified tier structure, to improve provider incentives and move expenditures closer to costs?

Deferring Rate Changes to After the Pandemic

14. In light of the protracted duration of the COVID–19 pandemic, the significant demand changes associated with it, and the consequent increase in uncertainty as to future costs and demand, the Commission seeks comment about the feasibility of setting new VRS compensation rates at this time. In 2020, following the outbreak of the COVID–19 pandemic and efforts to reduce its spread, VRS providers

experienced an unanticipated increase in VRS traffic levels. Providers incurred some additional costs resulting from the need for operational adjustments, such as migrating communications assistants from call centers to working at home, and hiring additional staff to cope with increased demand.

15. The TRS Fund administrator reports that the increased expenses incurred by VRS providers during the pandemic were more than offset by increased call volumes, resulting in a significant reduction in providers' average cost per minute from 2019 to 2020. Specifically, average demand has risen during the pandemic period by approximately 25%, and average per-minute provider costs declined from 2019 to 2020 by approximately 5.3%. At this time, the effects of the pandemic continue to be felt across the VRS industry, and it is unclear whether VRS traffic levels will return to a lower, pre-pandemic level. For many years, the Commission has found that the most reliable reference points in setting VRS compensation rates are the actual costs reported for the previous calendar year (in this case 2020) and the projected costs for the current calendar year (in this case 2021). Parties have raised the concern that, if the Commission relies on 2020 and 2021 data (as it would under the current practice), its estimate of per-minute costs could turn out to be understated in relation to actual post-pandemic costs, and rates set in reliance on 2020–21 data might not reasonably compensate VRS providers for the costs they will incur in the next rate period.

16. In light of these uncertainties regarding future VRS costs and demand, should the Commission maintain the existing VRS compensation tiers and rates for the next two TRS Fund rate periods, *i.e.,* until June 30, 2023, to allow the effects of the COVID–19 pandemic to resolve, so that future rates can be set based on cost and demand data that more reliably reflect post-pandemic conditions? Under a rate freeze approach, providers receiving compensation at the emergent rate on June 30, 2021, as well as any new entrants, would continue to be compensated at the emergent rate. Or should the Commission move forward with adopting modified compensation rates based on current cost and demand estimates, which could be adjusted to address the likelihood of a reversion to pre-pandemic demand levels?

17. What are the likely costs and benefits of freezing current compensation rates for two years? The Commission invites advocates of this approach to explain and document the dimensions of any risk of further demand fluctuations they perceive. The Commission also seeks comment on whether such risks could or could not be mitigated by adopting a more conservative approach to ratemaking, such as by relying on 2019 costs as an additional benchmark for rate-setting. According to the TRS Fund administrator's estimate, the current rates allowed providers, on average, to recover 31.4% above allowable expenses in TRS Fund Year 2020–21—operating margins that are substantially above the zone of reasonableness (7.75%–12.35%) the Commission set in 2017. Is the risk of future changes in costs and demand so substantial that it warrants maintaining what appear to be over-compensatory compensation rates? Are there other effects that changing the compensation rate during this period could have on the provision of VRS?

18. In addition, it has been suggested that increased VRS demand, as well as limitations on in-person education during the pandemic, has constricted the current supply of VRS communications assistants as well as the number of American Sign Language (ASL) interpreters entering the training ''pipeline'' for future availability for VRS employment. The Commission invites commenters to submit any evidence that would support a prediction of additional increases in such labor costs, the likely extent of such increases, and whether such increases are likely to be temporary or permanent.

19. If the Commission decides to move forward and set revised compensation rates for 2022 and beyond, it invites parties to comment on how cost and demand estimates should be adjusted, if at all, to account for possible post-COVID costs and demand. Are 2020 and projected 2021 cost and demand data sufficiently reliable to serve as a reasonable basis to set rates for a new multi-year rate cycle? Should the Commission look only at provider-projected costs, *e.g.,* for 2021 and 2022, without considering historical costs? Alternatively, should the Commission substitute 2019 cost and demand data, in anticipation that VRS costs and demand may decrease to pre-pandemic levels once the pandemic subsides? Or should the Commission assume that demand will remain higher than 2019 levels, and if so, how much higher? What labor cost adjustments, if any, should be applied?

Retaining or Modifying the Current Rate Structure

20. If the Commission decides to move forward and adopt a modified VRS compensation plan, what, if any, changes to the current rate structure would be warranted?

21. *Emergent rate.* The Commission seeks comment on whether to retain or eliminate the emergent rate for VRS providers with no more than 500,000 monthly minutes. Has there been any change in circumstances since 2017 that would justify retaining the emergent rate, notwithstanding the Commission's previously stated intention to terminate the emergent rate after June 2021? The Commission notes that no new applicants have requested certification to provide VRS since 2011. Are any firms currently planning or considering whether to apply for VRS certification? Have relevant circumstances changed for current beneficiaries of the emergent rate? For example, has any provider subject to the emergent rate managed to expand its market share, and if so, to what extent is continued application of the emergent rate still necessary? The Commission also notes that in 2017 it did not purport to assure cost recovery for *every* emergent VRS provider, but only to provide a reasonable opportunity for cost recovery, on a temporary basis, for those that have demonstrated an ability to grow substantially. Alternatively, are there other benefits from continuing to support very high-cost providers, even if they fail to reduce their per-minute costs substantially? Among the advantages of the tiered-rate system is that it allows support for smaller providers offering ''niche'' services to meet the needs of subsets of the signing population. Should the Commission make the continued application of the emergent rate conditional on a provider's success in providing specific niche services not offered by others? To assist its determinations regarding tier structure, the Commission seeks comment on the specific services and features offered by each VRS provider. To what extent do providers offer niche services or features targeted to specific user populations, to provide functionally equivalent communication for such users? For example, GlobalVRS states that in addition to providing ASL-to-English VRS, it provides ASL-to-Spanish VRS. Do other providers currently offer ASL-to-Spanish VRS, and to how many customers? Are there significant qualitative differences among such offerings? Which providers, if any, offer a service to deafblind users—and to how many users—that permits the deafblind user to speak using ASL, while the CA communicates to the deafblind user in English or Spanish text that can be read by a refreshable Braille reader? Do other providers offer

this type of service, or others, to deafblind users, and if so, what kind of service is offered to how many users?

22. As for costs, in addition to the greater TRS Fund expenditures needed to support very high-cost providers, would the costs of perpetuating a special rate for such providers include lessened incentives to innovate, reduce costs, and grow market share? What other costs result from the emergent rate? Are the benefits of retaining the emergent rate sufficient to justify the costs? If retained, should the Commission alter the maximum-minutes criterion for applying the emergent rate?

23. *Tier Structures.* The Commission also seeks comment on whether to retain or modify the current tier structures, whereby Tier I includes a provider's first 1 million monthly minutes, Tier II includes additional minutes up to 2.5 million, and Tier III includes all minutes above 2.5 million. The Tier I limit of 1 million minutes was adopted to ensure that as providers grew large enough to leave the emergent category, they would be subject to a rate that reflects their size and likely cost structure and that is appropriately lower than the marginal rate applicable to larger providers. Does this tier boundary continue to be appropriate? For example, has the ZVRS-Purple merger resulted in increased efficiencies? If so, what is the scale of such efficiencies, and does the existence of such efficiencies support the conclusion that substantial economies of scale can be achieved by growing above the benchmark of 1 million monthly minutes? Alternatively, if the emergent rate is eliminated, should Tier I be subdivided, so as to apply different rates, for example, to a provider's first 500,000 and second 500,000 minutes, or to a provider's first 300,000 minutes and its next 700,000 minutes? Are such changes warranted by relevant scale economies in the provision of VRS or a need to support niche services, as discussed above? Would these alternatives unduly limit a provider's incentive to increase its monthly minutes beyond 300,000 or 500,000?

24. The Commission also seeks comment on whether to retain or modify the structures of Tiers II and III. To what extent has the gap in per-minute costs between Sorenson and ZP Better Together, LLC (ZP), narrowed? The Commission seeks comment on whether the retention of a tier boundary at 2.5 million minutes is supported by experience over the past four years. Is the Commission's 2017 finding—that substantial scale economies are likely to be present even at the 2.5 million minutes level—still supportable or are scale economies exhausted below that level? Alternatively, does experience show that substantial economies are likely present above the current boundary? If the current Tier II upper boundary is no longer appropriate, should the boundary be increased or decreased, and to what level? Alternatively, should the Commission create a fourth tier, and with what boundaries? Should the current Tiers II and III be merged? More broadly, how should the Commission account for increasing economies of scale in setting VRS rates, and at what scale do such economies stop increasing? The Commission encourages providers to submit recent real-world data relevant to whether the provision of VRS continues to be characterized by substantial scale economies and the appropriate boundaries for setting tiered rates that reasonably reflect those economies.

25. With respect to all three tiers, what marketplace distortions, if any, may be created by retaining tier boundaries—or drawing new ones—that are not closely correlated to scale economies? What other costs and benefits are relevant to retaining or adjusting the number of tiers or the tier boundaries?

26. *Additional Compensation for Specialized Services.* The Commission also seeks comment on whether it would serve the objectives of section 225 of the Act for a VRS provider to receive additional per-minute compensation from the TRS Fund (in addition to the amount payable under the tiered formula) for the provision of certain specialized services, such as, for example, service to deafblind consumers, Spanish-ASL interpreting, or responding to requests that Certified Deaf interpreters be added to a call. What criteria should the Commission use to decide which, if any, specialized services should be supported by additional compensation and how to define the circumstances in which such services will be compensated? How should the additional reasonable costs of such services be determined for the purpose of setting an appropriate amount of additional compensation? What measures should the Commission take to prevent waste, fraud, and abuse in the provision of, or requests for, such specialized services?

Setting Tiered Rate Levels

27. Assuming that the Commission adopts adjusted compensation rates at this time, it seeks comment on the appropriate rate level for each tier. In 2017, the Commission sought to set the rates for each tier to limit the likelihood that any provider's total compensation will be insufficient to provide a reasonable margin over its allowable expenses, and to limit the extent of any overcompensation of a provider in relation to its allowable expenses and reasonable operating margin. The Commission believes it should maintain this goal in setting tiered rates, although by setting rates for providers in discrete size classes based on general cost differentials between large, medium-sized, and small providers, the Commission does not seek or purport to guarantee all providers recovery of their individual costs. The Commission seeks comment on this belief.

28. *Operating Margin.* The Commission proposes that VRS compensation rates for the next cycle should aim to ensure that the total compensation paid to all providers allows an average recovery of an operating margin above allowable expenses that is within the zone of reasonableness (7.75%–12.35%). The Commission is unaware of relevant changes in financial markets or other conditions affecting the VRS industry that would warrant reassessment of the zone of reasonableness. The Commission seeks comment on this proposal, including any changes that would justify setting a higher or lower range of reasonable operating margins. Is the current allowable operating margin sufficient to attract capital, new entry, and promote functionally equivalent VRS services? What has been providers' experience since 2017? Further, should the Commission set a specific allowed operating margin within this range, and if so, at what percentage?

29. *Allowable Costs.* To the extent that, notwithstanding the Commission's history of comprehensive consideration of allowable cost issues, parties believe it is important to revisit allowable cost issues, the Commission urges commenters to state specifically in what respects the Commission's prior determinations on allowable costs are no longer valid, describe in detail any respects in which relevant circumstances have changed in the intervening period, and explain how the outcome they seek is consistent with, and furthers the purposes of, section 225 of the Act.

30. *Marginal Cost Benchmarks.* The Commission continues to believe that marginal cost for a provider of relevant size would be an appropriate benchmark for Tier II or Tier III rates if it can be reasonably estimated. Of particular concern, some VRS providers distribute substantial amounts of free

user equipment as a marketing device to add or retain customers. In light of the waste and market disruption that can result from the use of device giveaways to recruit customers, the Commission seeks comment on whether to limit the compensation rates for tiers above Tier I to levels that do not exceed a reasonable percentage above a relevant provider's marginal allowable cost of providing an additional minute of service. The Commission also believes this approach to setting rates will help ensure that the TRS Fund is not providing *de facto* support for the costs of user devices, contrary to section 225 of the Act and the Commission's longstanding rule precluding the use of the TRS Fund to support such distribution of user devices. The Commission seeks comment on the above-stated beliefs, and on how the Commission should estimate marginal allowable cost for purposes of applying a marginal-cost benchmark. For example, what expense categories should be included or excluded when calculating the marginal cost of providing an additional minute of VRS? Would a per-minute average of the operating expenses reported in Part B of the TRS Fund administrator's annual expense reporting form for VRS providers—which includes salaries and benefits for relay center staff, including communications assistants, telecommunications expenses, billing expenses, and relay center expenses—serve as a reasonable proxy for the marginal expense of providing an additional VRS minute? Should the marginal cost benchmark for a given tier be calculated as a weighted average of the marginal cost for those VRS providers for which that tier currently defines (or is projected to define) the highest applicable rate? The Commission seeks comment on whether marginal cost is an appropriate metric, or whether the Commission should consider alternative metrics. Would marginal-cost benchmarks for Tiers II and III deter continued investment in the service? Would they cause providers to ''put on the brakes'' and stop competing as the Commission feared in 2017? Or would they appropriately discourage providers from incurring wasteful marketing and other costs? What increment over marginal cost would be needed to ensure that beneficial effects are achieved, and detrimental effects are avoided?

31. *Rate Levels.* The Commission also seeks comment on where to set rates for the emergent rate (if retained) and Tiers I–III. If the emergent rate is retained, should the Commission increase it, *e.g.,* to the weighted average 2019 cost per minute for the current emergent providers, plus a 10% operating margin, maintain it at the current level of $5.29, or decrease it, *e.g.,* to the weighted average of the emergent providers' projected cost per minute for 2022, plus a 10% operating margin? For Tier I, the Commission seeks comment on whether to increase the rate, *e.g.,* to $5.29 (the current emergent rate), maintain the current $4.82 rate, or reduce it, *e.g.,* to the weighted average of the emergent providers' projected cost per minute for 2022, plus a 10% operating margin. For Tier II, the Commission seeks comment on whether to maintain the rate at $3.97, or decrease it, *e.g.,* to the level of the weighted-average marginal allowable expense per minute (plus a reasonable operating margin) of those providers for which the Tier II rate is the lowest applicable rate. For Tier III, the Commission seeks comment on whether to maintain the current $2.63 rate or decrease it, *e.g.,* to the level of the weighted-average marginal allowable expense per-minute (plus a reasonable operating margin) of those providers for which the Tier III rate is the lowest applicable rate. The Commission also invites parties to submit other suggested rate levels for each tier, with justification and supporting data.

32. To the extent the current tier structure is modified, as discussed above, the Commission seeks comment on appropriate rates for the modified tiers. Are there other factors the Commission should consider in determining appropriate rates of compensation for each tier? As an alternative, should the Commission consider Sorenson's suggestion to establish a unitary compensation rate for non-emergent providers at or about $3.33, the current average per-minute compensation paid across all VRS providers? Should the Commission also consider ZP's proposal that the Commission keep the existing rates but increase the benchmark for Tier II from 2.5 million to 5 million minutes, under the theory, in ZP's view, that doing so would allow continued competition and increased investment in the community? The Commission seeks comment on these proposals.

Rate Period and Adjustments

33. *Rate Period.* The Commission seeks comment on the duration of the next rate period. In the current circumstances, what rate period will appropriately balance the needs for administrative efficiency, rate certainty, and cost-reduction incentives with the need for a timely review of how VRS costs may change in the future?

34. *Glide Path.* If the Commission makes substantial reductions in any tiered rate, should it transition to that level in stages to avoid disruption of service to VRS consumers? What would be a reasonable annual percentage rate reduction for this purpose? For IP CTS, the Commission recently adopted a ''glide path'' for the IP CTS compensation rate, with a 10% annual reduction towards cost-based rates. Would a 10% annual reduction be appropriate for VRS?

35. *Price Indexing Adjustments.* The Commission seeks comment on whether a price indexing formula, analogous to price-cap factors, should be applied to tiered rates during a multi-year rate period, and on the appropriate indices to use to reflect inflation and productivity. Is the application of price indexing factors needed to ensure that VRS providers have a reasonable opportunity to recover costs, to provide a sufficient incentive to reduce costs, or to prevent overcompensation of providers due to predictable future productivity-related cost declines? If adopted, how should a price-indexing approach be structured in the context of tiered rates, *e.g.,* to account for any disparities in expected productivity gains between small and large providers?

Initial Regulatory Flexibility Analysis

36. As required by the Regulatory Flexibility Act of 1980, as amended (RFA), the Commission has prepared this Initial Regulatory Flexibility Analysis (IRFA) of the possible significant economic impact on a substantial number of small entities by the policies and rules proposed in the *NPRM.* Written public comments are requested on this IRFA. Comments must be identified as responses to the IRFA and must be filed by the deadline for comments specified in the **DATES** section. The Commission will send a copy of document FCC 21–61 to the Chief Counsel for Advocacy of the Small Business Administration (SBA).

Need For, and Objectives of, the Proposed Rules

37. The Commission intends to develop a multi-year cost-based compensation rate methodology for VRS. To develop a complete record the Commission seeks comment on maintaining a tiered rate structure, including the specifics for the tiered structure and for setting such rates, and in the alternative, freezing the current rates. The Commission is making these proposals for the purpose of allowing recovery of reasonable provider costs and ensuring that functionally

equivalent VRS is provided in the most efficient manner. The Commission seeks comment on these proposals, which include a number of various policy questions and alternatives for consideration.

Legal Basis

38. The authority for this proposed rulemaking is contained in sections 1, 2, and 225 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 152, 225.

Small Entities Impacted

39. The proposals in the *NPRM* will affect obligations of VRS providers. These services can be included within the broad economic category of All Other Telecommunications.

Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements

40. The proposed compensation methodologies will not create reporting, recordkeeping, or other compliance requirements.

Steps Taken To Minimize Significant Impact on Small Entities, and Significant Alternatives Considered

41. The Commission is taking steps to minimize the impact on small entities and considering significant alternatives by identifying multiple methodologies for compensating VRS providers for the provision of VRS. The Commission seeks comment on maintaining tiered rates, including the specifics for the tiered structure and for setting such rates, and in the alternative, freezing the current rates. The Commission will consider these proposals to determine the best compensation methodology for ensuring choice among suppliers for VRS users and to help maintain functionally equivalent service and maintain an efficient VRS market over the long term in accordance with the Commission statutory obligations. The Commission seeks comment on the effect these proposals will have on all entities that provide VRS, including small entities.

42. The Commission also seeks comment from all interested parties. Small entities are encouraged to bring to the Commission's attention any specific concerns they may have with the proposals outlined in the *NPRM.* The Commission expects to consider the economic impact on small entities, as identified in comments filed in response to the *NPRM,* in reaching its final conclusions and acting in this proceeding.

Federal Rules Which Duplicate, Overlap, or Conflict With, the Commission's Proposals

43. None.

Federal Communications Commission.

Marlene Dortch,

Secretary, Office of the Secretary.

[FR Doc. 2021–11681 Filed 6–3–21; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

[Docket No. FWS–R8–ES–2020–0017; FF08E00000 FXES11110800000 212]

RIN 1018–BF94

Endangered and Threatened Wildlife and Plants; Finding on a Petition To List the Tiehm's Buckwheat as Threatened or Endangered

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notification of 12-month petition finding.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), announce a 12-month finding on a petition to list Tiehm's buckwheat *(Eriogonum tiehmii)* as an endangered or threatened species under the Endangered Species Act of 1973, as amended (Act). The Service has determined, after a review of the best available scientific and commercial information, that the petitioned action to list Tiehm's buckwheat, a plant species native to Nevada in the United States, is warranted. The Service, therefore, will promptly publish a proposed rule to list Tiehm's buckwheat under the Act.

DATES: The finding in this document was made on June 4, 2021.

FOR FURTHER INFORMATION CONTACT: Marc Jackson, Reno Ecological Services Field Office, 1340 Financial Boulevard, Suite 234, Reno, NV 89502; telephone 775–861–6337. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Relay Service at 800–877–8339.

Availability of supporting materials: Our Species Status Assessment for Tiehm's buckwheat is available at *https://www.fws.gov/reno/content/endangered-species,* and at *http://www.regulations.gov* under Docket No. FWS–R8–ES–2020–0017.

SUPPLEMENTARY INFORMATION:

Background

Section 4(b)(3)(B) of the Endangered Species Act of 1973, as amended (Act; 16 U.S.C. 1531 *et seq.*), requires that, within 12 months of receipt of a petition to add a species to, or remove a species from, the Lists of Endangered and Threatened Wildlife and Plants, a finding be made as to whether the requested action is: (a) Not warranted, (b) warranted, or (c) warranted, but precluded by other listing activity. If the action is found to be warranted, section 4(b)(3)(B)(ii) requires a prompt publication in the **Federal Register** of a general notice and the complete text of a proposed regulation to implement such action.

On October 7, 2019, we received a petition from the Center for Biological Diversity (CBD; CBD 2019, entire) requesting that Tiehm's buckwheat be listed as threatened or endangered, that critical habitat be concurrently designated for this species under the Act, and that the petition be considered on an emergency basis. The Act does not provide for a process to petition for emergency listing; therefore, we evaluated the petition to determine if it presented substantial scientific or commercial information indicating that the petitioned action may be warranted. The Service published a 90-day finding on July 22, 2020 (85 FR 44265), stating that the petition presented substantial scientific or commercial information indicating that listing Tiehm's buckwheat may be warranted.

On September 29, 2020, CBD filed a complaint in the U.S. District Court for the District of Nevada against the Service alleging violations under the Administrative Procedure Act (5 U.S.C. 551 *et seq.*); CBD amended the complaint on October 8, 2020, to include a claim under the Endangered Species Act that the Service had missed the 1-year deadline of October 7, 2020, for issuing a 12-month finding for Tiehm's buckwheat. On April 21, 2021, the court issued a decision, and, in response to a stipulated request for a revised remedy order, on May 17, 2021, the court amended the decision and ordered the Service to deliver a 12-month finding on Tiehm's buckwheat to the **Federal Register** by May 31, 2021. The Service now announces a 12-month finding on the October 7, 2019, petition to list Tiehm's buckwheat.

Species Description and Habitat

Tiehm's buckwheat was first discovered in 1983 and described in 1985. All available taxonomic and genetic research information indicates that Tiehm's buckwheat is a valid and

recognizable taxon and represents a distinct species. Tiehm's buckwheat is a low-growing perennial herb, with blueish gray leaves and pale, yellow flowers that bloom from May to June and turn red with age. Seeds ripen in late-June through mid-July. Tiehm's buckwheat is a narrow-ranging endemic known only from one population, comprising eight subpopulations, in the Rhyolite Ridge area of Silver Peak Range in Esmeralda County, Nevada. The single population of Tiehm's buckwheat is restricted to approximately 10 acres (4 hectares) across a 3-square-mile area, located entirely on public lands administered by the Bureau of Land Management (BLM). The subpopulations are separated by a rural county unpaved road where subpopulations 1, 2, and 8 occur north of the road, and subpopulations 3, 4, 5, 6, and 7 occur south of the road. A 2019 survey estimated that the total Tiehm's buckwheat population is 43,921 individual plants. Surveys have not detected additional populations of Tiehm's buckwheat.

Tiehm's buckwheat is a soil specialist specifically adapted to grow on its preferred soil type. The species is restricted to dry, open, relatively barren slopes with light-colored rocky clay soils derived from an uncommon formation of interbedded claystones, shales, tuffaceous sandstones, and limestones. Vegetation varies from pure stands of Tiehm's buckwheat to sparse associations with a few other low-growing herbs and grass species. The abundance and diversity of arthropods (insects, mites, and spiders) observed in Tiehm's buckwheat subpopulations is especially high (1,898 specimens from 12 orders, 70 families, and 129 species were found in 2020) for a plant community dominated by a single plant species. Primary pollinator visitors to Tiehm's buckwheat include wasps, beetles, and flies. Tiehm's buckwheat benefits from pollinator services and needs pollination to increase seed production.

Threats

The naturally occurring Tiehm's buckwheat population (represented by one population with eight subpopulations) and a seedling transplant experiment suffered detrimental herbivory in 2020. All of the naturally occurring subpopulations experienced greater than 50 percent damage or loss of individual plants, while almost all transplants were lost to rodent herbivores in a 2-week period. An environmental DNA analysis (*i.e.,* trace DNA found in soil, water, food items, or other substrates with which an organism has interacted) conducted on damaged Tiehm's buckwheat roots, nearby soils, and rodent scat strongly linked small mammal herbivory to the widespread damage and loss of the naturally occurring Tiehm's buckwheat population. This was the first time herbivory was documented on the species, although, prior to 2019, surveys of the population were infrequent. The significance of herbivory in the naturally occurring population depends not only on its frequency and intensity, but whether damaged plants can recover and survive, as we are uncertain if the species will be able to recover from this damage and loss. Rodent herbivore pressure precluded seedling survival in experimental plots. Further studies and monitoring need to be conducted to determine if management to reduce rodent herbivory is necessary to maintain Tiehm's buckwheat individuals and subpopulations, or if it was just a random catastrophic event that is not likely to occur on a regular basis.

The specialized soils on which Tiehm's buckwheat occurs are high in lithium and boron, making this location of high interest for mineral development. In May 2020, Ioneer USA Corporation (Ioneer) submitted a plan of operations to BLM for the proposed Rhyolite Ridge Lithium-Boron project. The proposed project is awaiting BLM permitting and approval for mineral development in the areas where the Tiehm's buckwheat population occurs. Ioneer's proposed Rhyolite Ridge Lithium-Boron project, if permitted by BLM, would result in the loss of habitat and subpopulations 4, 5, 6, and 7, even with the voluntary protection measures included in Ioneer's s project proposal. The potential impact from the proposed project, combined with the loss resulting from the recent herbivory event, would reduce the total Tiehm's buckwheat population by 70 to 88 percent, or from 43,921 individuals to roughly 5,289–8,696 individuals. The number of individuals estimated to survive is a range because we do not know yet if the plants damaged from herbivory will be able to recover and survive. The low end of this range is based on permanent loss of damaged plants, while the high end represents conditions if all the herbivore-damaged plants recover. Dust deposition, generated from increased vehicle traffic associated with mine operations, may also negatively affect the overall health and physiological processes of the subpopulations remaining (1, 2, 3, and 8) after full implementation of the project.

Ioneer is proposing to salvage all remaining plants in subpopulations 4, 5, 6, and 7 by transplanting them to another location. However, we are uncertain whether the salvage operation will succeed because current research indicates that Tiehm's buckwheat is a soil specialist, that adjacent unoccupied sites are not suitable for all early life-history stages, and there has been no testing and multiyear monitoring on the feasibility of successfully transplanting the species. The impact to Tiehm's buckwheat from mining, salvage operations, or both would be permanent and irreversible under the proposed project because the plants and the land on which they are currently growing, including any existing seed bank in the soil, would be completely removed, and in place of that site there would be a terminal quarry lake. The terminal quarry lake would develop when the mining operation ceased pumping out the anticipated groundwater that would infiltrate the quarry. Elimination of these subpopulations may remove corridors for pollinator movement, seed dispersal, and population expansion. There is strong evidence that subpopulation 6 is the most resilient of the eight Tiehm's buckwheat subpopulations. This subpopulation contains multiple life stages of individual plants, including the majority of older and larger plants across all populations. In addition, subpopulation 6 has the most variety in size classes of individual plants, indicating it is likely experiencing the most recruitment. Loss of subpopulation 6, in particular, may have an immense impact on the overall resiliency and continued viability of the entire Tiehm's buckwheat population.

In addition to the direct impacts from the physical removal of subpopulations as a result of the project, road development and vehicle traffic associated with the proposed mine, as well as livestock grazing which currently occurs within the Tiehm's buckwheat population as part of the BLM's Silver Peak allotment, may create conditions that further favor the establishment of nonnative invasive species within Tiehm's buckwheat habitat. Mineral exploration has already impacted Tiehm's buckwheat habitat by contributing to the spread of saltlover (*Halogeton glomeratus*), a nonnative invasive plant species, within all subpopulations of the species. Mineral exploration activities can result in disturbance to natural soil conditions that support Tiehm's buckwheat and encourage spread of saltlover, which alters the substrate by making the soil

more saline and less suitable as habitat for Tiehm's buckwheat. Mineral exploration vehicles also can carry the seeds of nonnative invasive plant species into the area. Road improvements also allow easier and greater access for recreational vehicles and off-highway vehicles (OHVs), with OHV impacts documented in subpopulation 1. Both livestock grazing and OHV use can kill or damage individual plants and modify Tiehm's buckwheat habitat through fragmentation and soil compaction.

In addition, Tiehm's buckwheat is adapted to dry upland sites, subject only to occasional saturation by rain and snow. Under climate change predictions, we anticipate alteration of precipitation and temperature patterns, as models forecast warmer temperatures and slight increases in precipitation. The timing and type of precipitation received (snow vs. rain) may impact plant transpiration and the soil water recharge needed by Tiehm's buckwheat. Additionally, variability in interannual precipitation combined with increasing temperatures, as recently seen from 2015 through 2020, may make conditions less suitable for Tiehm's buckwheat by bolstering local rodent populations. High rodent abundance combined with high temperatures and drought may have contributed to the large herbivore impacts in 2020 in both the transplant experiment and native population. Thus, climate change may exacerbate impacts from other threats currently affecting this species and its habitat.

Tiehm's buckwheat does not currently receive regulatory protection from the State of Nevada. BLM has designated Tiehm's buckwheat as a sensitive species. However, BLM's regulations require operators to avoid adverse effects only to species listed as threatened or endangered under the Act and their habitat (43 CFR 3809.420(b)(7)), not sensitive species. Also, under BLM's regulations operators may explore, place mining claim monuments, and cause a surface disturbance of up to 5 acres after an operator gives notice to BLM and waits 15 days (43 CFR 3809.21(a)). BLM lacks discretion to require conservation measures for sensitive species as a condition for exploring for or developing minerals subject to disposal under the Mining Law of 1872, as amended (30 U.S.C. 22–54). In some circumstances, operators may include voluntary commitments to undertake protection or conservation measures as part of their proposed mining operations, as Ioneer has done in its proposed mine plan.

Finding

Based upon the preceding information, the totality of threats described above, and other information contained in the Tiehm's buckwheat Species Status Assessment (SSA), the Service has determined that the petitioned action to list Tiehm's buckwheat under the Endangered Species Act of 1973, as amended, is warranted. The Service, therefore, will promptly publish a proposed rule to list Tiehm's buckwheat. We will open a public comment period at the time of publication of the proposed rule. Any information received from the public prior to the publication of the proposed rule will be considered and addressed when we address comments received on the proposed rule.

Author

This document was prepared by the U.S. Fish and Wildlife Service, Reno Fish and Wildlife Office, 1340 Financial Blvd., Suite 234, Reno, NV 89521 and the U.S. Fish and Wildlife Service, Regional Office, 2800 Cottage Way, Sacramento, CA 95825.

Authority

The authority for this action is section 4 of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*).

Martha Williams,

Principal Deputy Director, Exercising the Delegated Authority of the Director, U.S. Fish and Wildlife Service.

[FR Doc. 2021–11700 Filed 6–3–21; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No.: 210528–0119]

RIN 0648–BK31

Fisheries of the Exclusive Economic Zone Off Alaska; Cook Inlet Salmon; Amendment 14

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

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS proposes regulations to implement Amendment 14 to the Fishery Management Plan for the Salmon Fisheries in the Exclusive Economic Zone (EEZ) Off Alaska (Salmon FMP). If approved, Amendment 14 would incorporate the Cook Inlet EEZ Subarea into the Salmon FMP's West Area, thereby bringing the Cook Inlet EEZ Subarea and the commercial salmon fisheries that occur within it under Federal management by the North Pacific Fishery Management Council (Council) and NMFS. The management measure implemented by Amendment 14 would be to apply the prohibition on commercial salmon fishing that is currently established in the West Area to the newly added Cook Inlet EEZ Subarea. This proposed rule is necessary to comply with a U.S. Court of Appeals for the Ninth Circuit ruling and to ensure the Salmon FMP is consistent with the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act). This proposed rule is intended to promote the goals and objectives of the Magnuson-Stevens Act, the Salmon FMP, and other applicable laws.

DATES: Submit comments on or before July 6, 2021.

ADDRESSES: You may submit comments, identified by NOAA–NMFS–2021–0018, 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–2021–0018 in the Search box. Click on the ''Comment'' icon, complete the required fields, and enter or attach your comments.
- *Mail:* Submit written comments to Glenn Merrill, Assistant Regional Administrator, Sustainable Fisheries Division, Alaska Region NMFS. Mail comments to P.O. Box 21668, Juneau, AK 99802–1668.

Instructions: Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered by NMFS. All comments received are a part of the public record and will generally be posted for public viewing on *www.regulations.gov* without change. All personal identifying information (*e.g.,* name, address), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments (enter ''N/A'' in the required fields if you wish to remain anonymous).

Electronic copies of the Environmental Assessment, the Regulatory Impact Review, and the Social Impact Analysis (collectively referred to as the ''Analysis''), and the draft Finding of No Significant Impact prepared for this proposed rule may be

obtained from *http://www.regulations.gov* or from the NMFS Alaska Region website at *https://www.fisheries.noaa.gov/region/alaska.*

FOR FURTHER INFORMATION CONTACT: Doug Duncan, 907–586–7228 or *doug.duncan@noaa.gov.*

SUPPLEMENTARY INFORMATION:

Authority for Action

NMFS manages U.S. salmon fisheries off of Alaska under the Salmon FMP. The Council prepared, and the Secretary of Commerce (Secretary) approved, the Salmon FMP under the authority of the Magnuson-Stevens Act, 16 U.S.C. 1801 *et seq.* Regulations implementing the Salmon FMP are located at 50 CFR part 679. General regulations governing U.S. fisheries also appear at 50 CFR part 600. The Council is authorized to prepare and recommend an FMP amendment for the conservation and management of a fishery managed under the FMP. NMFS conducts rulemaking to implement FMP amendments and regulatory amendments.

The Council recommended Amendment 14 to incorporate the Cook Inlet EEZ Subarea (defined as EEZ waters north of a line at 59°46.15′ N) into the Salmon FMP's Fishery Management Unit as a part of the West Area. The West Area is currently defined as the EEZ off Alaska in the Bering Sea, Chukchi Sea, Beaufort Sea, and the Gulf of Alaska west of the longitude of Cape Suckling, at 143°53.6′ W longitude except for the Cook Inlet Area, the Prince William Sound Area, and the Alaska Peninsula Area. This proposed rule would implement Amendment 14.

A notice of availability (NOA) for Amendment 14 was published in the **Federal Register** on May 18, 2021 with comments invited through July 19, 2021. All relevant written comments received by July 19, 2021, whether specifically directed to the NOA or this proposed rule, will be considered by NMFS in the decision to approve, disapprove, or partially approve Amendment 14. Commenters do not need to submit the same comments on both the NOA and this proposed rule. Comments submitted on this proposed rule by the end of the comment period for this proposed rule (See **DATES**) will be considered by NMFS in our decision whether to approve and implement Amendment 14.

Background

In December 2020, the Council recommended Amendment 14 to the Salmon FMP. Amendment 14 would incorporate the Cook Inlet EEZ Subarea into the Salmon FMP's West Area, thereby bringing the Cook Inlet EEZ Subarea and the commercial salmon fisheries that occur within it under Federal management by the Council and NMFS. The management measure implemented by Amendment 14 would apply the prohibition on commercial salmon fishing that is currently established in the West Area to the newly added Cook Inlet EEZ Subarea. This proposed rule would implement Amendment 14 by removing the regulation that excludes the Cook Inlet EEZ Subarea from the directly adjacent West Area. This action specifically addresses management of the Cook Inlet EEZ Subarea and the commercial salmon fishery that occurs there.

History of the Salmon FMP

The Council's Salmon FMP manages the Pacific salmon fisheries in the EEZ from 3 nautical miles to 200 nautical miles off Alaska. The Council developed the Salmon FMP under the Magnuson-Stevens Act, and it first became effective in 1979. The Salmon FMP was comprehensively revised by Amendment 3 in 1990 (55 FR 47773, November 15, 1990), and again most recently by Amendment 12 in 2012 (77 FR 75570, December 21, 2012).

Since 1979, the Council has divided the Salmon FMP's coverage into the West Area and the East Area, with the boundary between the two areas at Cape Suckling, at 143°53.6′ W longitude. This action focuses on commercial salmon fishing management in the West Area. Prior to Amendment 12, the Salmon FMP authorized commercial fishing in the East Area, sport salmon fishing in both areas, and prohibited commercial salmon fishing in the West Area. However, the commercial salmon fishing prohibition in the West Area was not applied to three areas in the EEZ where commercial salmon fishing with nets was originally authorized by the International Convention for the High Seas Fisheries of the North Pacific Ocean, as implemented by the North Pacific Fisheries Act of 1954 (1954 Act). The Salmon FMP refers to these three areas of the EEZ where commercial net fishing for salmon occurs as the ''Cook Inlet EEZ,'' the ''Alaska Peninsula EEZ,'' and the ''Prince William Sound EEZ,'' and refers to these areas collectively as the ''traditional net fishing areas.'' Under the authority of the 1954 Act, NMFS issued regulations that set the outside fishing boundaries for the traditional net fishing areas as those set forth under State of Alaska (State) regulations and stated that any fishing in these areas was to be conducted pursuant to State regulations.

In 1990, the Council amended the Salmon FMP, continuing to prohibit commercial salmon fishing with nets in the EEZ, with the exception of the traditional net fishing areas managed by the State. The next major modification to the Salmon FMP occurred when the Council recommended Amendment 12 in December 2011. In developing Amendment 12, the Council recognized that the law governing the three traditional net fishing areas (the 1954 Act) had changed and the Salmon FMP was vague with respect to Federal management of the traditional net fishing areas. After considering various alternatives, the Council recommended and NMFS approved Amendment 12, which removed the three traditional net fishing areas from the Salmon FMP's Fishery Management Unit.

Removing the traditional net fishing areas from the Salmon FMP's West Area allowed the State to continue managing these areas independently, which the State has done since before the inception of the Salmon FMP in 1979. Any commercial fishing for salmon by State registered vessels in the traditional net fishing areas is managed solely by the State. In developing Amendment 12, the Council considered Federal management of the three traditional net fishing areas and the salmon fisheries that occur within them, but determined that (1) the State was managing the salmon fisheries within these three areas consistent with the policies and standards of the Magnuson-Stevens Act, (2) the Council and NMFS did not have the expertise or infrastructure (such as personnel, monitoring and reporting systems, and processes for salmon stock assessments) to manage Alaska salmon fisheries, and (3) Federal management of these areas would not serve a useful purpose or provide additional benefits and protections to the salmon fisheries within these areas. The Council recognized that salmon are best managed as a unit throughout their range and separate Federal management of a portion of the fishery would not be optimal. The Council also recognized the State's long-standing expertise and well developed infrastructure for salmon management and the fact that the State has been adequately managing the salmon fisheries in Alaska since Statehood. The Council determined that Amendment 12 was consistent with the management approach established in the original Salmon FMP in 1979.

The final rule implementing Amendment 12 was published in the **Federal Register** on December 21, 2012 (77 FR 75570). On January 18, 2013, Cook Inlet commercial salmon fishermen and seafood processors filed

a lawsuit in Federal district court challenging Amendment 12 and its implementing regulations. *United Cook Inlet Drift Ass'n* v. *NMFS,* No. 3:13–cv–00104–TMB, 2014 WL 10988279 (D. Alaska 2014). The lawsuit included a challenge to Amendment 12's removal of the Cook Inlet EEZ from the Salmon FMP. On appeal, the Ninth Circuit held that section 302(h)(1) of the Magnuson-Stevens Act (16 U.S.C. 1852(h)(1)) clearly and unambiguously requires a Council to prepare and submit FMPs for each fishery under its authority that requires conservation and management. *United Cook Inlet Drift Ass'n* v. *NMFS,* 837 F.3d 1055, 1065 (9th Cir. 2016). Because NMFS agreed that the Cook Inlet EEZ salmon fishery needs conservation and management by some entity, the Ninth Circuit ruled that the Magnuson-Stevens Act requires that it be included in the Salmon FMP.

Developing Management Alternatives

The Council spent significant time from 2017 to 2020 developing and evaluating management alternatives to comply with the Ninth Circuit's ruling. The Council broadly identified two management approaches for amending the FMP, one that would incorporate the area into the Salmon FMP and delegate authority over specific management measures to the State with review and oversight by the Council (Alternative 2; Section 2.4 of the Analysis), and one that would incorporate the area into the Salmon FMP and retain all management within the Federal process (Alternative 3; Section 2.5 of the Analysis). The Analysis identified the management measures and processes that would be required to implement these two approaches, as well as the complexities, uncertainties, benefits, costs, and burdens to fishery participants associated with these two approaches. In October 2020, the Council considered all of this information and chose to identify an approach that would incorporate the Cook Inlet EEZ into the Salmon FMP and close the area to commercial salmon fishing as a separate and distinct management alternative (Alternative 4; Section 2.6 of the Analysis). This approach was previously identified as a potential management outcome under Alternative 3. Similar to Alternative 3, Alternative 4 would retain all management within the Federal process and would not delegate management authority to the State. It is also noted that the Council considered taking no action (Alternative 1; Section 2.3 of the Analysis), but this is not a viable approach because it would be inconsistent with the Ninth Circuit ruling and the Magnuson-Stevens Act.

To obtain important participant insight into the management of Cook Inlet salmon fisheries, the Council formed the Cook Inlet Salmon Committee (Committee), consisting of Cook Inlet salmon fishery stakeholders from the harvesting and processing sectors. The Committee met six times from 2018 to 2020 to develop recommendations for the Council regarding management of the Cook Inlet EEZ. Ultimately, the Committee recommended that management be delegated to the State, but with expanded Federal oversight and review, as well as a management scope that included both the State marine and fresh waters of Cook Inlet. The Council did not include the Committee's recommended alternative for further consideration because the Council does not have any jurisdiction over State fresh waters and can only assert jurisdiction over fisheries occurring within State marine waters under very limited circumstances if the Secretary preempts state management under section 306(b) of the Magnuson-Stevens Act (16 U.S.C. 1856(b)). The conditions required for preemption are not met for the salmon fisheries in the State marine waters of Cook Inlet. A more complete discussion of the Committee's work and consideration by the Council can be found in Sections 1.4 and 2.7 of the Analysis, respectively.

Over the course of several years, Federal and State fisheries scientists and fishery managers developed proposed status determination criteria complete with all the reference points required by the Magnuson-Stevens Act for appropriate conservation and management of Cook Inlet salmon stocks. These criteria were reviewed by the Council and its Scientific and Statistical Committee (SSC). This was a significant undertaking and integral to the development and analysis of alternatives. This process included input from State scientists currently managing the fishery, as well as comments from Committee members and other stakeholders. The proposed status determination criteria and reference points served as the foundation for proposed Federal management of the Cook Inlet EEZ under Alternatives 2 and 3 but were also applied retrospectively to provide a comprehensive assessment of the State's escapement-based management of Cook Inlet salmon stocks. The Analysis found that State management of Cook Inlet salmon stocks has been consistently appropriate for conservation within the bounds of the status determination criteria that would be implemented under Federal management. The analysis further determined that the addition of Federal management is unlikely to appreciably change salmon conservation metrics and thresholds established in Cook Inlet (Section 3.1 of the Analysis). However, while conservation objectives for Cook Inlet salmon stocks were consistent across alternatives, the Analysis demonstrated that the ability to fully achieve these objectives while accounting for management uncertainty and management flexibility varied among alternatives (Sections 3.1 and 4.7.1 of the Analysis).

Recognizing the significant regional, cultural, and economic importance of Cook Inlet salmon resources, the Council invested significant resources towards working to find solutions to challenges identified by stakeholders and fishery managers throughout the Salmon FMP amendment development process. While the Council identified some flexibility with the specific management measures that could be implemented under Federal management with specific management measures delegated to the State (Alternative 2) and Federal management (Alternatives 3 and 4), neither the Council, NMFS, the State, nor stakeholders were able to identify another fundamentally different management approach that could satisfy the Ninth Circuit ruling, the Magnuson-Stevens Act, and other applicable law.

After this extensive review and development process, and as explained in further detail below, the Council took final action to recommend Alternative 4 as Amendment 14 to the Salmon FMP. The Council determined, and NMFS agrees, that Federal management of the Cook Inlet EEZ through closure of the area to commercial salmon fishing (1) takes the most precautionary approach to minimizing the potential for overfishing, (2) avoids creating new management uncertainty, (3) minimizes regulatory burden to fishery participants, (4) maximizes management efficiency for Cook Inlet salmon fisheries, and (5) avoids the introduction of an additional management jurisdiction and the associated uncertainty it would add to the already complex and interdependent network of Cook Inlet salmon fisheries.

The Council considered but did not select Alternative 2, which would have delegated management authority over the Cook Inlet EEZ to the State. During Council deliberation, the State announced that it would not accept a delegation of management authority for Cook Inlet. Although section

306(a)(3)(B) of the Magnuson-Stevens Act allows a Council to delegate management authority to a state, subject to a three-quarters majority vote, neither the Council nor NMFS can compel a state to cooperate in a fishery management plan that delegates authority (16 U.S.C. 1856(a)(3)(B)). Therefore, after the State announced it would not accept delegated management authority for the Cook Inlet EEZ, Alternative 2 was no longer a viable option.

Because Alternative 1 (no action) and Alternative 2 (Federal management with specific management measures delegated to the State) were not viable, this focused Council consideration on Alternative 3 (Federal management) and Alternative 4 (Federal management with the Cook Inlet EEZ closed to commercial salmon fishing). The Council considered and rejected Alternative 3. The Council determined, and NMFS agrees, that a separately managed Federal commercial salmon fishery in the Cook Inlet EEZ would have significant management challenges alongside adjacent State-managed salmon fisheries, resulting in precautionary reductions in EEZ salmon harvests or closures of the area as detailed in Sections 2.5 and 4.7.1.3 of the Analysis. When a commercial salmon fishery could occur in the Cook Inlet EEZ, Alternative 3 would create new management uncertainty relative to the status quo because Federal harvest limits must be established preseason and Federal fishery managers do not have the same tools and flexibility available to State managers to quickly respond to updated in-season information about salmon runs that deviate from preseason estimates (Sections 2.5.3 and 2.5.10 of the Analysis). Alternative 3 would increase the risk of overfishing or forgone yield.

For example, if a salmon run is larger than expected and a Federal catch limit for a stock is reached, it is unlikely Federal managers would be able to adjust Federal catch limits to provide for additional harvest in the Cook Inlet EEZ within the window of harvest opportunity. These salmon would later be available for harvest in State waters, but because it would be difficult to predict the timing of Federal closures and such closures could occur with short notice, Alternative 3 is expected to make subsequent utilization in State waters more challenging. Conversely, if the run strength of one or more salmon stocks is weaker than expected, Federal managers would have less data to evaluate this as well as a longer delay to close the fishery, increasing the risk of not meeting escapement goals and overfishing weak stocks. It is important to note that the Cook Inlet salmon fishery targets mixed stocks of salmon. The composition, abundance, and productivity of salmon stocks and species in the fishery varies substantially on an annual basis, and the need to conserve weaker stocks and avoid overfishing by reducing fishing effort sometimes results in foregone harvest from more productive stocks. This is of particular concern for salmon gillnet gear which cannot always target strong stocks while sufficiently limiting harvest on co-occurring weak stocks. These practical considerations, combined with the preseason establishment of catch limits for each stock and stock complex, present significant challenges to consistently achieving appropriate harvest rates on all stocks under Alternative 3.

In addition, NMFS must manage the Federal fisheries under its jurisdiction to prevent overfishing, including accounting for all removals, even when the removals responsible for causing overfishing are outside of NMFS's jurisdiction. Therefore, if the proportion of salmon removals increase in State waters, harvests in the EEZ would be reduced to prevent overfishing. Because of these factors and NMFS's overriding responsibility under the Magnuson-Stevens Act to prevent overfishing, NMFS expects Cook Inlet EEZ catch limits under Alternative 3 would be much more conservative than EEZ harvest levels under the status quo. As a result of limited data, increased management uncertainty, decreased management flexibility, and uncertainty about future State water harvest levels, NMFS expects that Alternative 3 could often require closing the EEZ to commercial fishing to account for uncertainty and prevent overfishing.

Another important consideration under Alternative 3 is the requirement for effective monitoring, recordkeeping, reporting, and enforcement of directly adjacent but separately managed State and Federal salmon fisheries within Cook Inlet. To ensure that salmon catch from the Cook Inlet EEZ could be accurately accounted for in order to avoid exceeding Federal catch limits, additional Federal fishery monitoring would be required (Section 2.5.7 of the Analysis). This would include requiring a Federal Fisheries Permit, completion of a required Federal logbook, and required use of a Vessel Monitoring System (VMS). Federal Fisheries Permits and logbooks would be provided at no cost to participants, but would require time to obtain and complete. The average cost for purchase, installation, and activation of a VMS is estimated at $3,500, and annual variable costs may include transmission costs of around $800 and potential maintenance and repairs averaging $77 (Section 4.7.2.2.6 of the Analysis). While there are grants available to help offset the initial purchase price of a VMS unit, ongoing operation and maintenance costs would be the responsibility of participants. These additional costs and burdens from required monitoring, recordkeeping, and reporting would not be expected to produce commensurate benefits given the anticipated reductions in EEZ harvests and could disproportionately impact economically marginal participants.

Ensuring that vessels participating only in the State waters fishery do not harvest in EEZ waters is another important consideration. As described in Section 2.5.7 of the Analysis, NMFS had concerns about monitoring vessels not registered to participate in the EEZ fishery to ensure that they do not intentionally or inadvertently harvest fish in the EEZ. This concern could be most simply addressed by opening the EEZ drift gillnet fishery at different times than when the State salmon drift gillnet fishery is open to allow for clear enforcement of the single open area. However, staggering the opening of EEZ and State salmon drift gillnet fisheries presents significant feasibility concerns given the dynamic nature of State management and the limited flexibility of Federal managers. For example, a short notice opening in State waters could disrupt a scheduled Federal opening. Additional monitoring of State waters participants could allow for concurrent State and Federal water openings, but this is not a viable solution because FMP requirements could not be imposed on vessels only registered and operating in the State waters drift gillnet salmon fishery.

Under Alternative 3, the annual Council consideration and determination of whether to allow an EEZ fishery would also increase uncertainty for fishery participants and processors, as well as make it difficult for State mangers to optimize management of salmon fisheries within State waters given the strong interactions between all salmon fisheries in Cook Inlet and the potential for highly variable biological and management conditions across Cook Inlet in a given year. For example, multiple sets of State management measures and contingency plans would have to be developed in order to account for (1) whether the EEZ is open in a given year, (2) the potential for multiple salmon stock abundance scenarios, and (3) a potentially unpredictable closure of the EEZ to

commercial salmon fishing in a given year if a Federal catch limit is reached sooner than predicted. Therefore, NMFS expects that Alternative 3 would pose significant challenges to achieving optimum yield (OY) on a continuing basis.

Finally, the Council acknowledged that neither the Council nor NMFS currently has the expertise or infrastructure to optimally manage salmon fisheries in the EEZ off Alaska independent of the State. Federal managers would be dependent on a high degree of voluntary cooperation from State managers for successful management of Cook Inlet salmon stocks under Alternative 3. For a commercial salmon fishery to occur in a given year under Alternative 3, the conservation and management conditions described in Section 2.5.3 of the Analysis must be met. These include a Federal salmon data gathering process for Cook Inlet that is adequately supported with data from State salmon fisheries in Cook Inlet, a harvestable surplus of salmon available in the EEZ that could support directed fishery openings, and salmon harvest reporting tools that allow the Federal catch accounting system to adequately monitor harvest and bycatch such that overfishing can be prevented. While management capacity could be developed over time, independent Federal management could nonetheless result in annual closures of the Cook Inlet EEZ due to separate Federal and State management (Section 2.5.3 of the Analysis). Developing expertise would require significant agency resources, and new Federal infrastructure would increase the burden of regulatory compliance on participants. Even with an established Federal infrastructure and experienced managers, it is expected that EEZ harvests would be reduced over the long term for the reasons stated above without significant anticipated conservation and management benefits.

Amendment 14 and This Proposed Rule

With Amendment 14 and this proposed rule, the Council and NMFS are proposing to amend the Salmon FMP and Federal regulations to comply with the Ninth Circuit's decision, the Magnuson-Stevens Act, and other applicable law. Amendment 14 and this proposed rule would incorporate the Cook Inlet EEZ Subarea into the Salmon FMP's West Area, thereby bringing the Cook Inlet EEZ Subarea and the commercial salmon fisheries that occur within it under Federal management by the Council and NMFS. With Amendment 14, most existing FMP provisions that apply to the West Area, including the prohibition on commercial salmon fishing, would also apply to the Cook Inlet EEZ Subarea.

The reference points of maximum sustainable yield (MSY) and OY would be separately specified for the Cook Inlet salmon fishery. Additionally, an annual catch limit (ACL) would be separately specified for the commercial salmon fishery in the Cook Inlet EEZ Subarea, reflecting the fact that Cook Inlet salmon stocks have historically been harvested in both State and Federal waters. This action would not modify reference points already established for the rest of the existing West Area. MSY would be established for the Cook Inlet salmon fishery as the maximum amount of harvest possible under the State's escapement goals, which is the largest long-term average catch that can be taken by the fishery under prevailing ecological, environmental conditions and fishery technological characteristics (*e.g.,* gear selectivity), and the distribution of catch among fishery sectors (50 CFR 600.310(e)(1)(i)). This includes the use of indicator stocks to manage where escapement is not directly known. Escapement goals account for biological productivity and ecological factors (Sections 3.1 and 11 of the Analysis). The Cook Inlet salmon fishery includes the stocks of salmon harvested by all sectors within State and Federal waters of Cook Inlet.

The OY range for the Cook Inlet salmon fishery would be the combined catch from all salmon fisheries occurring within Cook Inlet (State and Federal water catch), which results in a post-harvest abundance within the escapement goal range for stocks with escapement goals, and below the historically sustainable average catch for stocks without escapement goals, except when management measures required to conserve weak stocks necessarily limit catch of healthy stocks. This OY is derived from MSY, as reduced by relevant economic, social, and ecological factors. These factors include annual variations in the abundance, distribution, migration patterns, and timing of the salmon stocks; allocations by the Alaska Board of Fisheries; traditional times, methods, and areas of salmon fishing; ecosystem needs; and inseason indices of stock strength.

The Council and NMFS determined that the proposed OY would be fully achieved in Cook Inlet State water salmon fisheries because compensatory fishery effort among various sectors in State waters is expected to make up for closing the Cook Inlet EEZ to commercial salmon fishing. Therefore, Amendment 14 would establish an ACL of zero for the commercial salmon fishery in the Cook Inlet EEZ Subarea. The proposed management measure of closing the Cook Inlet EEZ Subarea to commercial salmon fishing would achieve the proposed ACL. Given that the Cook Inlet EEZ Subarea management measure is fishery closure, additional reference points and accountability measures are not necessary and therefore would not be specified.

This proposed rule would revise the definition of Salmon Management Area at 50 CFR 679.2 to redefine the Cook Inlet Area as the Cook Inlet EEZ Subarea and incorporate it into the West Area. This proposed rule would also revise Figure 23 to 50 CFR part 679 consistent with the revised definition of the Salmon Management Area at § 679.2. As part of the West Area, the Cook Inlet EEZ Subarea would be subject to the prohibition on commercial fishing for salmon at § 679.7(h)(2).

Objectives and Rationale for Action

The primary objective of this action is to apply Federal management to the commercial salmon fishery in the Cook Inlet EEZ in accordance with the Magnuson-Stevens Act. In recommending Amendment 14, the Council ultimately concluded that managing the Cook Inlet EEZ by prohibiting commercial salmon fishing optimized conservation and management of Cook Inlet salmon fisheries when considering the costs and benefits of the available management alternatives. Through this proposed action, the Council would continue to apply its longstanding salmon management policy for the West Area, which is to facilitate State salmon management in accordance with the Magnuson-Stevens Act and applicable Federal law. As with the rest of the West Area, this policy would be achieved by prohibiting commercial fishing for salmon in the Cook Inlet EEZ Subarea so that the State can manage Alaska salmon stocks as a unit within State waters. NMFS determined that salmon fishery resources in Cook Inlet can be fully utilized by salmon fisheries occurring within State waters and that the State manages its salmon fisheries based on the best available information using the State's escapement goal management system. This proposed rule would not modify existing State management measures, nor would it preclude the State from adopting additional management measures that could provide additional harvest opportunities for harvesters, including commercial drift gillnet fishermen, within State waters.

This action (1) takes the most precautionary approach to minimizing the potential for overfishing, (2) provides the greatest opportunity for maximum harvest from the Cook Inlet salmon fishery, (3) avoids creating new management uncertainty, (4) minimizes regulatory burden to fishery participants, (5) maximizes management efficiency for Cook Inlet salmon fisheries, and (6) avoids the introduction of an additional management jurisdiction into the already complex and interdependent network of Cook Inlet salmon fisheries.

Consistency of Proposed Action With the National Standards

In developing Amendment 14, the Council considered consistency of the proposed action with the Magnuson-Stevens Act's 10 National Standards (16 U.S.C. 1851) and designed its proposed action to balance their competing demands. While all 10 of the National Standards were considered, five national standards figured prominently in the Council's recommendation for Amendment 14: National Standard 1, National Standard 2, National Standard 7, National Standard 3, and National Standard 8.

National Standard 1

National Standard 1 states that conservation and management measures shall prevent overfishing while achieving, on a continuing basis, the OY from each fishery for the United States fishing industry. OY is the amount of fish that will provide the greatest overall benefit to the Nation, particularly with respect to food production and recreational opportunities and taking into account the protection of marine ecosystems, that is prescribed on the basis of the MSY from the fishery, as reduced by any relevant economic, social, or ecological factor. This action establishes MSY on the basis of State escapement goals and proxies that were evaluated through the analytical process for this action and determined to be consistent with the goals and objectives of the Salmon FMP and the conservation objectives of the Magnuson-Stevens Act.

For the Cook Inlet salmon fishery, OY is based on the MSY escapement goals, qualitatively reduced to account for management measures required to conserve weak stocks. This OY ensures the Cook Inlet salmon fishery produces the greatest net benefit to the Nation by maintaining an economically viable fishery while still providing recreational and subsistence opportunities, accounting for consumption of salmon by a variety of marine predators, and protecting weaker stocks. As illustrated by Sections 3 and 4 of the Analysis, the State has consistently achieved this OY through its management strategy, and by allowing the State to continue managing Cook Inlet salmon as a unit, NMFS anticipates that OY would continue to be achieved in State water salmon fisheries. Thus, NMFS finds that the proposed OY for the Cook Inlet salmon fishery would be achieved on a continuing basis under Amendment 14.

In addition, by prohibiting commercial salmon harvest in the Cook Inlet EEZ, the Council and NMFS would avoid creating new management uncertainty and reduce the risk of overfishing inherent to an independent Federal management regime that would not be well-suited to respond to in-season data as necessary to adjust harvest levels. Amendment 14 and this proposed rule would enable the State to continue to manage salmon fisheries in State waters to achieve escapement goals and maximize economic and social benefits from the fishery. While the closure of the Cook Inlet EEZ Subarea to commercial fishing impacts a significant proportion of the drift gillnet fleet's harvest, the closure would minimize the possibility of overfishing and would be expected to allow utilization of salmon to be maximized over the long-term among all fishery participants as State management measures are refined to account for a predictable closure of the Cook Inlet EEZ Subarea (Section 4.7.1.4 of the Analysis).

The Council and NMFS properly weighed the adverse economic impacts that are anticipated to occur for some EEZ commercial salmon fishery participants from a closure of the Cook Inlet EEZ Subarea against the risk of overfishing and long-term achievement of OY through State fisheries. The Council and NMFS continue to recognize that the State is best situated to respond to changing conditions inseason to fully utilize salmon stocks consistent with the constraints of weak stock management in a mixed stock fishery. In light of this fact, through this action, the Council and NMFS are fulfilling their duty to manage the Cook Inlet EEZ and have determined that closing the Cook Inlet EEZ to commercial salmon fishing is the management approach most likely to maximize utilization of the resource while preventing overfishing. Management measures under the Salmon FMP and other Federal FMPs, together with the State's scientifically-based management program in State waters of Cook Inlet adjacent to the West Area, would continue to ensure that overfishing of salmon does not occur.

National Standard 2

National Standard 2 states that conservation and management measures shall be based upon the best scientific information available. The Council carefully evaluated the available biological, ecological, environmental, economic, and sociological scientific information to determine how to most effectively conserve and manage Cook Inlet salmon resources. This process included SSC review to provide scientific advice for the fishery management decision, evaluation of uncertainty in the development of salmon escapement goals (Section 11 of the Analysis), and a comprehensive description of social and economic conditions in the Cook Inlet salmon fishery (Section 4 of the Analysis), as well as consideration of alternative scientific points of view regarding the potential for overcompensation in Cook Inlet salmon stocks (Section 13 of the Analysis). From this analysis, the Council determined that the State's escapement goal management system is based on and uses the best available scientific information to manage Cook Inlet salmon fisheries. Section 3.1 of the Analysis found State salmon management to be almost entirely consistent with proposed Federal measures for status determination criteria and reference points required by the Magnuson-Stevens Act. Specifically, this Analysis indicated that the State has and is appropriately conserving and managing Cook Inlet salmon stocks, that the State largely could have achieved Federal reference points over that time period, and that independent Federal management would not have been expected to produce significant conservation changes or benefits relative to State management of the salmon fishery based on Federal reference points. The Council also evaluated the social and economic impacts of their action using the best available scientific information.

National Standard 7

The very high degree of consistency between existing State management and proposed Federal management was also important in the Council's consideration of National Standard 7, which states that conservation and management measures shall, where practicable, minimize costs and avoid unnecessary duplication. The proposed management approach of closing the Cook Inlet EEZ to commercial salmon fishing avoids unnecessary duplication of management to the greatest possible extent. The

Council did recognize that this action could have significant costs because it closes an area responsible for just under 50 percent of drift gillnet fleet harvests, on average. However, under the only other viable alternative, the Council also expected significant reductions in EEZ harvests and possible fishery closures, but with added participation costs, management costs, and uncertainty, as described above. Ultimately, the Council determined, and NMFS agrees, that this action would provide for sufficient salmon harvest opportunity in State waters to largely offset the costs. In addition, closure of the Cook Inlet EEZ minimizes regulatory burden and participants would not have to track or participate in management of the Cook Inlet salmon fishery across multiple jurisdictions to plan their businesses. Finally, closure of the Cook Inlet EEZ would create the most efficient Cook Inlet salmon management arrangement of the two available management approaches. Under National Standard 7, management measures should not impose unnecessary burdens on the economy, on individuals, on private or public organizations, or on Federal, state, or local governments. As explained in more detail below under *Potential Impacts of the Action,* when the Council considered the costs and benefits of management by closure under Amendment 14 (Alternative 4), the Council determined, and NMFS agrees, that Amendment 14 is consistent with National Standard 7.

National Standard 3

The Council highlighted that management of salmon in Cook Inlet is highly complex, requiring multiple interdependent management plans to achieve sustainable harvest of Cook Inlet salmon stocks that benefit all user groups. National Standard 3 states that to the extent practicable, an individual stock of fish shall be managed as a unit throughout its range, and interrelated stocks of fish shall be managed as a unit or in close coordination. Given the significant degree of interaction among salmon fisheries in Cook Inlet, management of salmon stocks as a unit throughout all Cook Inlet salmon fisheries is particularly important. Management action in one Cook Inlet salmon fishery often has direct relationships with harvest rates and harvest composition by stock in other regional salmon fisheries. With commercial salmon fishing being prohibited in the Cook Inlet EEZ, all salmon fishing in Cook Inlet would occur within State waters under State management which continues to promote unity of management of Cook Inlet salmon stocks across their range. Separate Federal management under Alternative 3 would significantly disrupt management unity and would impose unnecessary duplication without additional benefits. Optimizing yield within acceptable management uncertainty thresholds is best accomplished by a single management entity in Cook Inlet. Developing Amendment 14 required extensive discussions and coordination between the managers of State and Federal jurisdictions to determine the best means of achieving the FMP's objectives and implementing a comprehensive approach to fishery management. The Council determined, and NMFS agrees, that management by closure of the federal fishery, which allows one jurisdiction (the State) to manage the harvest of salmon stocks as a unit, is consistent with National Standard 3.

National Standard 8

The Council acknowledged that this action would likely have adverse impacts on drift gillnet salmon harvesters operating in the Cook Inlet EEZ and their associated communities, but would also likely have corresponding benefits to other salmon users within many of the same communities. National Standard 8 requires that conservation and management measures shall, consistent with the conservation requirements of the Magnuson-Stevens Act, take into account the importance of fishery resources to fishing communities by utilizing economic and social data that are based upon the best scientific information available, in order to (a) provide for the sustained participation of such communities, and (b) to the extent practicable, minimize adverse economic impacts on such communities. The Analysis considered the social and economic importance of the Cook Inlet salmon fisheries to fishing communities, and recognized these communities participate in a variety of salmon fisheries apart from the drift gillnet fishery. While the Analysis identified varying dependence on the Cook Inlet EEZ portion of the Cook Inlet commercial salmon fishery, no community was identified as solely dependent on the EEZ portion of the drift gillnet fishery (Section 4.5.5 of the Analysis). In addition, the Council recognized that closing the Cook Inlet EEZ to commercial salmon fishing would result in additional harvest opportunity in State waters, and that the associated benefits would be distributed across Cook Inlet fishing communities given the diversity of users involved. In all, the Analysis supports a finding that this action would provide for the sustained participation of fishing communities in Cook Inlet salmon fisheries, even if there is some redistribution of benefits. Under this proposed action, it is likely that at least some of these benefits would accrue to communities that also experience adverse impacts based on their engagement and dependence on multiple Cook Inlet salmon fisheries. Therefore, this action is consistent with National Standard 8.

In addition, closure of the Cook Inlet EEZ Subarea would minimize adverse economic impacts to the extent practicable by avoiding the costs of additional monitoring, recordkeeping, and reporting that would be required to access the Cook Inlet EEZ Subarea under Alternative 3, despite reduced harvest opportunities and the annual possibility of closure to account for added uncertainty. Further, National Standard 8 requires NMFS to consider adverse economic impacts within the constraints of conservation and management goals. This action is explicitly intended to prevent overfishing and achieve the conservation and management goals of the Salmon FMP while recognizing that an economically viable fishery would still occur within State waters.

Potential Impacts of the Action

This action would close a portion of the historically used fishing area for the Upper Cook Inlet (UCI) drift gillnet salmon fishery. The UCI drift gillnet salmon fishery currently operates in both State and EEZ Cook Inlet waters without specific reference to the boundary and is the only commercial salmon fishery that would be directly regulated by this action.

As described in Section 4.7.1.4 of the Analysis, the impacts of closing the Cook Inlet EEZ on UCI salmon drift gillnet vessels would be proportional to the extent that they rely on the EEZ. The entire active UCI salmon drift gillnet fleet likely fishes in the Cook Inlet EEZ Subarea at some time during each fishing season, but over the entire season, each vessel differs with respect to its level of economic dependency on fishing in this area. Section 4.5.2.3 of the Analysis describes that from 2009 through 2018 an estimated average of 48.7 percent of gross revenue ($10.3 million) for the UCI drift gillnet fleet was generated from salmon caught in the Cook Inlet EEZ Subarea. In the last 5 years, an estimated average of approximately 42.7 percent of gross revenue ($5.8 million) was generated in the EEZ for the fishery. While UCI drift gillnet vessels could relocate their

current EEZ salmon fishing effort to State waters under existing State regulations, their overall harvests may be reduced due to less productive fishing areas, increased travel costs, increased fishery congestion, and potentially less overall productive fishing time available in State waters. Conversely, catch rates in State waters may improve without commercial fishery catch in the EEZ. In addition, State management measures could be adjusted to allow more harvest in state waters to account for the Cook Inlet EEZ closure.

It is not possible to estimate the magnitude of potential harvest reductions to the UCI drift gillnet fleet because of the complexities of Cook Inlet mixed-stock salmon fisheries and intertwined State management plans. If the UCI drift gillnet fleet cannot offset reductions in harvest within State waters due to the closure of the Cook Inlet EEZ Subarea, it is likely that the UCI drift gillnet fleet's revenues and participation in the fishery would decrease. Reductions in harvest by the affected drift gillnet vessels are expected to provide additional harvest opportunity for other commercial and non-commercial salmon users in Cook Inlet. This is expected to offset forgone salmon harvest in the event the drift gillnet fleet is unable to make up its historical EEZ harvest amounts in State waters (Section 4.7.1.4 of the Analysis).

This action would not prohibit or otherwise modify management of salmon fishing in State waters. The UCI drift gillnet fleet is expected to continue to operate in State waters under Amendment 14. It is important to note that State salmon management plans for Cook Inlet have been predicated on the Cook Inlet EEZ Subarea being open to commercial salmon fishing by the drift gillnet fleet. The State would be able to modify management of all Cook Inlet salmon fisheries within State waters to account for the Cook Inlet EEZ Subarea closure.

This action is not expected to have significant impacts to salmon stocks or other affected parts of the environment. The State would continue to manage Cook Inlet salmon stocks within State waters consistent with current practices, and as described above, the State has consistently achieved conservation objectives. As described in Section 3.1.4 of the Analysis, harvest of Cook Inlet salmon stocks is expected to remain near or marginally below existing levels resulting in salmon escapements near or marginally above existing levels.

While no significant impacts to Cook Inlet salmon stocks are expected, a closure of the Cook Inlet EEZ Subarea would have conservation and management benefits resulting from decreased management uncertainty. Importantly, commercial catch of Cook Inlet salmon stocks in the Cook Inlet EEZ Subarea would be prohibited as a result of this action. This could improve management precision and better avoid overfishing as these stocks would be harvested nearer to natal streams where improved escapement data and better information about realized run strength is more likely to be available. This is particularly important given the life history of salmon that only allows for harvest in a single season for terminal fisheries. In the event of lower than expected salmon returns, the State has additional escapement data and can more rapidly take action to avoid a conservation concern using their Emergency Order authority when compared to the Federal rulemaking process because of the challenges described in Sections 2.5.3 and 2.5.10. Similarly, if realized run strength is better than expected, the State can better maximize utilization of surplus production by issuing an Emergency Order to allow for additional harvest opportunities, avoiding uncertainties from unpredictable EEZ closure timing identified in Section 4.7.1.3 of the Analysis.

Additionally, increased passage of salmon stocks into Northern Cook Inlet may have other benefits. Prohibiting commercial catch in the Cook Inlet EEZ Subarea could improve the density of salmon prey available to endangered Cook Inlet belugas present in northern Cook Inlet during the summer months as noted in Section 3.3.1.1 of the Analysis. If there is insufficient harvest capacity operating only in State waters, the escapement of some Cook Inlet salmon stocks could increase. While increased escapement may not be desirable for all stocks in all years, a closure of the Cook Inlet EEZ Subarea to commercial harvest minimizes the possibility of overfishing and would be expected to allow utilization to be maximized over the long term as State management measures are refined to account for a predictable closure of the Cook Inlet EEZ Subarea (Section 4.7.1.4 of the Analysis).

This action would not directly regulate salmon processors, but may affect them. To the extent that this action would decrease catches by the drift gillnet fleet in Cook Inlet that are not offset by increased catch in State waters by the drift gillnet fleet or by other commercial salmon fishing sectors, deliveries of Cook Inlet salmon and associated revenues to processors would be reduced. The impacts to individual processors would be influenced by the dependency on Cook Inlet salmon harvested in the EEZ as described in Section 4.5.4 of the Analysis. The later entry of salmon stocks into the State waters of Cook Inlet may also lead to a later and shorter period of Cook Inlet salmon processing activity. Depending on the business models of individual processors, this could reduce processing efficiency.

The previously mentioned impacts to Cook Inlet salmon harvesters and processors would also have impacts to associated communities in Cook Inlet and elsewhere as described in Section 4.7.1.4 of the Analysis. Decreases in the harvest levels of the UCI drift gillnet fleet under this action would have the potential to differentially affect communities, including communities associated with the UCI drift gillnet fleet and other salmon user groups. For communities engaged in or dependent on harvests by the UCI drift gillnet fleet, the potential adverse impacts to businesses connected to the harvest, processing, or support service sectors could result in greater or lesser localized impacts, depending on the specific nature and magnitude of community engagement in or dependency on the fishery in combination with the varying demographic and socioeconomic attributes of the relevant communities. However, reductions in salmon harvest by the UCI drift gillnet fleet are expected to be offset over the long term by increases to other salmon fishery sectors in these communities. Communities associated with these other salmon fishery sectors (*e.g.,* the commercial set net, sport, and personal use salmon fisheries), may experience localized benefits based on the specific nature and magnitude of community engagement in or dependency on those other sectors but, as previously noted, it is not possible to estimate the magnitude of potential harvest benefits to these communities. Community level distributive impacts under this action are not anticipated to substantially affect net benefits to the nation (Section 4.10 of the Analysis).

As this action would prohibit commercial salmon fishing in the Cook Inlet EEZ Subarea consistent with existing management in adjacent West Area waters, no additional Federal fishery management measures are required. The West Area prohibition on commercial salmon fishing would continue to be enforced by State and Federal authorities under the revised boundaries resulting from this proposed action.

Classification

Pursuant to section 304(b)(1)(A) of the Magnuson-Stevens Act, the NMFS Assistant Administrator has determined that this proposed rule is consistent with the Salmon FMP, other provisions of the Magnuson-Stevens Act, and other applicable law, subject to further consideration after public comment.

This proposed rule has been determined to be not significant for the purposes of Executive Order 12866.

A Regulatory Impact Review was prepared to assess costs and benefits of available regulatory alternatives. A copy of this analysis is available from NMFS (see **ADDRESSES**). The Council recommended and NMFS proposes Amendment 14 and these regulations based on those measures that maximize net benefits to the Nation. Specific aspects of the economic analysis are discussed below in the Initial Regulatory Flexibility Analysis section.

Initial Regulatory Flexibility Analysis

This Initial Regulatory Flexibility Analysis (IRFA) was prepared for this proposed rule, as required by Section 603 of the Regulatory Flexibility Act (RFA) (5 U.S.C. 603), to describe the economic impact this proposed rule, if adopted, would have on small entities. The IRFA describes the action; the reasons why this proposed rule is proposed; the objectives and legal basis for this proposed rule; the number and description of directly regulated small entities to which this proposed rule would apply; the recordkeeping, reporting, and other compliance requirements of this proposed rule; and the relevant Federal rules that may duplicate, overlap, or conflict with this proposed rule. The IRFA also describes significant alternatives to this proposed rule that would accomplish the stated objectives of the Magnuson-Stevens Act, and any other applicable statutes, and that would minimize any significant economic impact of this proposed rule on small entities. The description of the action, its purpose, and the legal basis are explained in the preamble and are not repeated here.

For RFA purposes only, NMFS has established a small business size standard for businesses, including their affiliates, whose primary industry is commercial fishing (see 50 CFR 200.2). A business primarily engaged in commercial fishing (NAICS code 11411) is classified as a small business if it is independently owned and operated, is not dominant in its field of operation (including its affiliates), and has combined annual receipts not in excess of $11 million for all its affiliated operations worldwide.

Number and Description of Small Entities Regulated by This Proposed Rule

This action would directly regulate holders of State of Alaska S03H Commercial Fisheries Entry Commission Limited Entry salmon permits (S03H permits). In 2021, 567 S03H permits were held by 502 individuals, all of which are considered small entities based on the $11 million threshold. Additional detail is included in Sections 4.5.3 and 4.9 in the Analysis prepared for this proposed rule (see **ADDRESSES**).

Description of Significant Alternatives That Minimize Adverse Impacts on Small Entities

The Council considered, but did not select three other alternatives. The alternatives, and their impacts to small entities, are described below.

Alternative 1 would take no action and would maintain existing management measures and conditions in the fishery within recently observed ranges, resulting in no change to impacts on small entities. This is not a viable alternative because it would be inconsistent with the Ninth Circuit's ruling that the Cook Inlet EEZ must be included within the Salmon FMP

Alternative 2 would delegate management to the State. If fully implemented, Alternative 2 would maintain many existing conditions within the fishery. Fishery participants would have the added burdens of obtaining a Federal Fisheries Permit, maintaining a Federal fishing logbook, and monitoring their fishing position with respect to EEZ and State waters as described in Sections 2.4.8 and 4.7.2.2 of the Analysis. However, the State is unwilling to accept a delegation of management authority. Therefore, Alternative 2 is not a viable alternative.

Alternative 3 would result in a Cook Inlet EEZ drift gillnet salmon fishery managed directly by NMFS and the Council. Alternative 3 would increase direct costs and burden to S03H permit holders and fishery stakeholders due to requirements including a Federal Fisheries Permit, VMS, logbooks, and accurate GPS positioning equipment as described in Sections 2.5.7 and 4.7.2.2 of the Analysis. Alternative 3 would also require that a total allowable catch (TAC) be set before each fishing season. The TAC would be set conservatively relative to the status quo in order to reduce the risk of overfishing without the benefit of inseason harvest data. Commercial salmon harvest in the EEZ would be prohibited if the Council and NMFS do not project a harvestable surplus, with an appropriate buffer for the increased management uncertainty. Further, as described in Section 2.5.3 of the Analysis, gaps in data could also require closing the EEZ to commercial fishing in any given year. Finally, Alternative 3 would increase uncertainty each year for fishery participants in developing a fishing plan because NMFS would determine whether the Cook Inlet EEZ could be open to commercial fishing on an annual basis and shortly before the start of the fishing season.

As discussed, Alternative 3 would impose substantial direct regulatory costs on participants while at the same time is not expected to result in consistent commercial salmon fishing opportunities in the Cook Inlet EEZ. Alternative 4 would close the Cook Inlet EEZ but not impose any additional direct regulatory costs on participants and would allow directly regulated entities to possibly recoup lost EEZ harvest inside State waters. As a result, Alternative 4 minimizes impacts to small entities.

Based upon the best available scientific data, and in consideration of the Council's objectives of this action, it appears that there are no significant alternatives to the proposed rule that have the potential to accomplish the stated objectives of the Magnuson-Stevens Act and any other applicable statutes and that have the potential to minimize any significant adverse economic impact of the proposed rule on small entities. After public process, the Council concluded that Alternative 4, the proposed Amendment 14, would best accomplish the stated objectives articulated in the preamble for this proposed rule, and in applicable statutes, and would minimize to the extent practicable adverse economic impacts on the universe of directly regulated small entities.

Duplicate, Overlapping, or Conflicting Federal Rules

NMFS has not identified any duplication, overlap, or conflict between this proposed rule and existing Federal rules.

Recordkeeping, Reporting, and Other Compliance Requirements

This proposed rule contains no information collection requirements under the Paperwork Reduction Act of 1995.

List of Subjects in 50 CFR Part 679

Alaska, Fisheries, Reporting and recordkeeping requirements.

Dated: May 28, 2021.

Samuel D. Rauch III,

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

For the reasons set out in the preamble, NOAA proposes to amend 50 CFR part 679 as follows:

PART 679—FISHERIES OF THE EXCLUSIVE ECONOMIC ZONE OFF ALASKA

■ 1. The authority citation for 50 CFR part 679 continues to read as follows:

Authority: 16 U.S.C. 773 *et seq.;* 1801 *et seq.;* 3631 *et seq.;* Pub. L. 108–447; Pub. L. 111–281.

■ 2. In § 679.2, amend the definition ''Salmon Management Area,'' by revising the introductory text of paragraph (2) and removing and reserving paragraph (2)(i) to read as follows:

§ 679.2 Definitions.

* * * * *

(2) *The West Area* means the area of the EEZ off Alaska in the Bering Sea, Chukchi Sea, Beaufort Sea, and the Gulf of Alaska west of the longitude of Cape Suckling (143°53.6′ W), including the Cook Inlet EEZ Subarea, but excludes the Prince William Sound Area and the Alaska Peninsula Area. The Cook Inlet EEZ Subarea means the EEZ waters of Cook Inlet north of a line at 59°46.15′ N. The Prince William Sound Area and the Alaska Peninsula Area are shown in Figure 23 and described as:

* * * * *

■ 3. Revise Figure 23 to Part 679 to read as follows:

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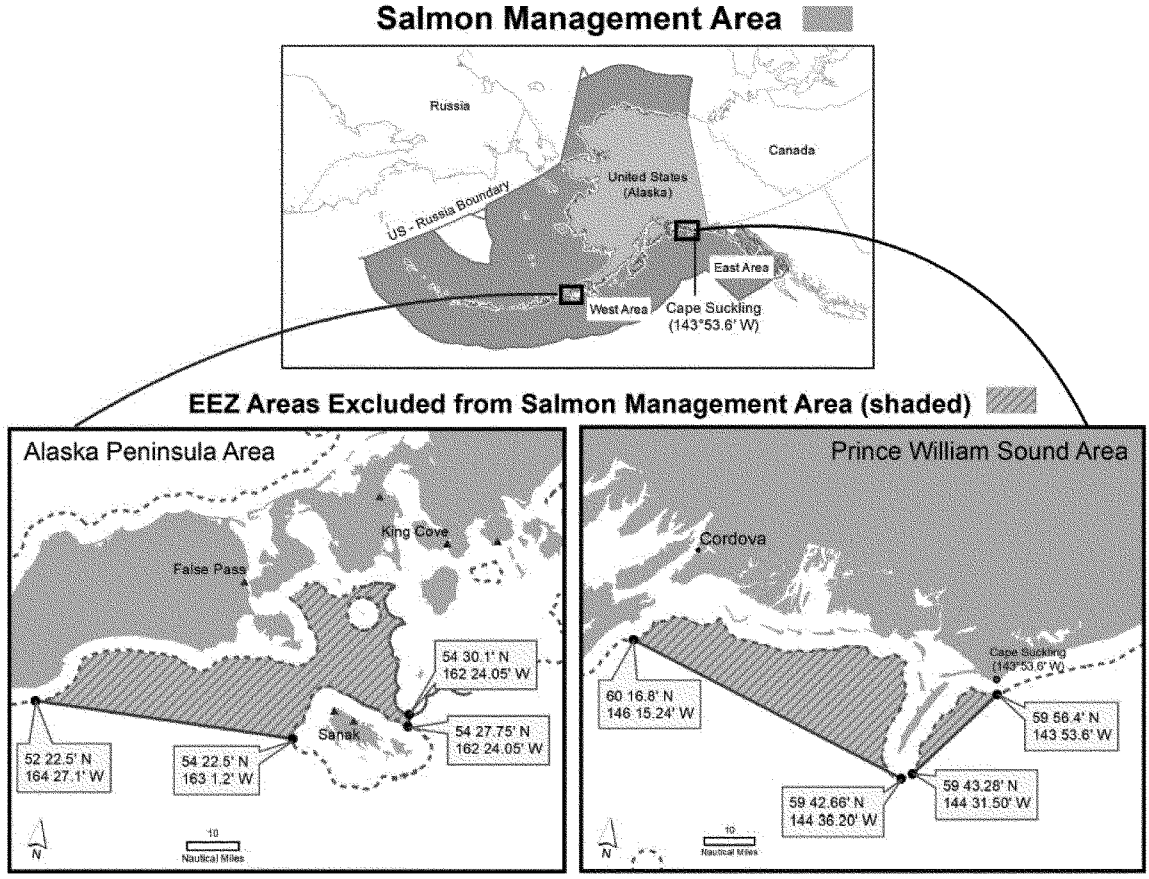
Figure 23 to Part 679 – Salmon Management Area (see § 679.2)



[FR Doc. 2021–11716 Filed 6–3–21; 8:45 am]

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Notices

Federal Register
Vol. 86, No. 106
Friday, June 4, 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

U.S. Codex Office

[Docket No. USDA–2021–XXXX]

International Standard-Setting Activities

AGENCY: Trade and Foreign Agricultural Affairs (TFAA), USDA.

ACTION: Notice.

SUMMARY: This notice informs the public of the sanitary and phytosanitary standard-setting activities of the Codex Alimentarius Commission (Codex), in accordance with the Trade Agreements Act of 1979, as amended, and the Uruguay Round Agreements Act. This notice also provides a list of other standard-setting activities of Codex, including commodity standards, guidelines, codes of practice, and revised texts. This notice, which covers Codex activities during the time periods from June 21,2020 to May 31, 2021 and June 1, 2021 to May 31, 2022, seeks comments on standards under consideration and recommendations for new standards.

ADDRESSES: The U.S. Codex Office (USCO) invites interested persons to submit their comments on this notice. Comments may be submitted by one of the following methods:

- *Federal e-Rulemaking Portal:* This website provides the ability to type short comments directly into the comment field on this web page or attach a file for lengthier comments. Go to *http://www.regulations.gov.* Follow the on-line instructions at the website for submitting comments.
- *Mail, including CD–ROMs, etc.:* Send to Docket Clerk, U.S. Department of Agriculture, Trade and Foreign Agricultural Affairs, 1400 Independence Avenue SW, Mailstop S4861, Washington, DC 20250–3700.
- *Hand- or courier-delivered submittals:* Deliver to 1400 Independence Avenue SW, Room 4861, Washington, DC 20250–3700.

Instructions: All items submitted by mail or email are to include the Agency name and docket number USDA–2021–XXXX. Comments received in response to this docket will be made available for public inspection and posted without change, including any personal information to *http://www.regulations.gov.*

Please state that your comments refer to Codex and, if your comments relate to specific Codex committees, please identify the committee(s) in your comments and submit a copy of your comments to the delegate from that committee.

Docket: For access to background documents or comments received, call (202) 720–5627 to schedule a time to visit the TFAA Docket Room at 1400 Independence Avenue SW, Room S4861, Washington, DC 20250–3700.

FOR FURTHER INFORMATION CONTACT: Ms. Mary Frances Lowe, United States Manager for Codex Alimentarius, U.S. Department of Agriculture, Office of the Under Secretary for Trade and Foreign Agricultural Affairs, U.S. Codex Office, South Agriculture Building, 1400 Independence Avenue SW, Room 4861, Washington, DC 20250–3700; Telephone: +1 (202) 205–7760; Fax: +1 (202) 720–3157; Email: *uscodex@usda.gov.*

For information pertaining to committees, contact the delegate of that committee. A complete list of U.S. delegates and alternate delegates can be found in Attachment 2 of this notice. Documents pertaining to Codex and specific committee agendas are accessible via the internet at *http://www.fao.org/fao-who-codexalimentarius/meetings/en/.* The U.S. Codex Office (USCO) also maintains a website at *http://www.usda.gov/codex.*

SUPPLEMENTARY INFORMATION:

Background

The World Trade Organization (WTO) was established on January 1, 1995, as the common international institutional framework for the conduct of trade relations among its members in matters related to the Uruguay Round Trade Agreements. The WTO is the successor organization to the General Agreement on Tariffs and Trade (GATT). United States membership in the WTO was approved and the Uruguay Round Agreements Act (Uruguay Round Agreements) was signed into law by the President on December 8, 1994, Public Law 103–465, 108 Stat. 4809. The Uruguay Round Agreements became effective, with respect to the United States, on January 1, 1995. The Uruguay Round Agreements amended the Trade Agreements Act of 1979. Pursuant to section 491 of the Trade Agreements Act of 1979, as amended, the President is required to designate an agency to be ''responsible for informing the public of the sanitary and phytosanitary (SPS) standard-setting activities of each international standard-setting organization'' (19 U.S.C. 2578). The main international standard-setting organizations are Codex, the World Organisation for Animal Health (OIE), and the International Plant Protection Convention. The President, pursuant to Proclamation No. 6780 of March 23, 1995, (60 FR 15845), designated the U.S. Department of Agriculture as the agency responsible for informing the public of the SPS standard-setting activities of each international standard-setting organization. The Secretary of Agriculture has delegated to the Trade and Foreign Agricultural Affairs Mission Area the responsibility to inform the public of the SPS standard-setting activities of Codex. The Trade and Foreign Agricultural Affairs Mission Area has, in turn, assigned the responsibility for informing the public of the SPS standard-setting activities of Codex to the U.S. Codex Office (USCO).

Codex was created in 1963 by two United Nations organizations, the Food and Agriculture Organization (FAO) and the World Health Organization (WHO). Codex is the principal international organization for establishing standards for food. Through adoption of food standards, codes of practice, and other guidelines developed by its committees, and by promoting their adoption and implementation by governments, Codex seeks to protect the health of consumers, ensure fair practices in the food trade, and promote coordination of food standards work undertaken by international governmental and nongovernmental organizations. In the United States, U.S. Codex activities are managed and carried out by the United States Department of Agriculture (USDA); the Food and Drug Administration (FDA), Department of

Health and Human Services (HHS); the National Oceanic and Atmospheric Administration (NOAA), Department of Commerce (DOC); and the Environmental Protection Agency (EPA).

As the agency responsible for informing the public of the SPS standard-setting activities of Codex, the USCO publishes this notice in the **Federal Register** annually. Attachment 1 (Sanitary and Phytosanitary Activities of Codex) sets forth the following information:

1. The SPS standards under consideration or planned for consideration; and

2. For each SPS standard specified:

a. A description of the consideration or planned consideration of the standard;

b. Whether the United States is participating or plans to participate in the consideration of the standard;

c. The agenda for United States participation, if any; and

d. The agency responsible for representing the United States with respect to the standard.

TO OBTAIN COPIES OF THE STANDARDS LISTED IN ATTACHMENT 1, PLEASE CONTACT THE U.S. DELEGATE OR THE U.S. CODEX OFFICE.

This notice also solicits public comment on standards that are currently under consideration or planned for consideration and recommendations for new standards. The U.S. delegate, in conjunction with the responsible agency, will take the comments received into account in participating in the consideration of the standards and in proposing matters to be considered by Codex.

The U.S. delegate will facilitate public participation in the United States Government's activities relating to Codex. The U.S. delegate will maintain a list of individuals, groups, and organizations that have expressed an interest in the activities of the Codex committees and will disseminate information regarding U.S. delegation activities to interested parties. This information will include the status of each agenda item; the U.S. Government's position or preliminary position on the agenda items; and the time and place of planning meetings and debriefing meetings following the Codex committee sessions. In addition, the USCO makes much of the same information available through its web page at *http://www.usda.gov/codex.* If you would like to access or receive information about specific committees, please visit the web page or notify the appropriate U.S. delegate or the U.S. Codex Office, Room 4861, South Agriculture Building, 1400 Independence Avenue SW, Washington, DC 20250–3700 (*uscodex@usda.gov*).

The information provided in Attachment 1 describes the status of Codex standard-setting activities by the Codex committees for the time periods from June 21,2020 to May 31, 2021 and June 1, 2021 to May 31, 2022. Attachment 2 provides a list of U.S. Codex officials (including U.S. delegates and alternate delegates). A list of forthcoming Codex sessions may be found at: *http://www.codexalimentarius.org/meetings-reports/en/.*

Additional Public Notification

Public awareness of all segments of rulemaking and policy development is important. Consequently, the USCO will announce this **Federal Register** publication on-line through the U.S. Codex web page located at: *https://www.federalregister.gov/agencies/us-codex-office.*

Done at Washington, DC.

Mary Lowe,

U.S. Manager for Codex Alimentarius.

Attachment 1

Sanitary and Phytosanitary Activities of Codex

Codex Alimentarius Commission and Executive Committee

The Codex Alimentarius Commission (CAC) is scheduled to convene virtually for its 44th Session on November 8–13, 2021 due to ongoing concerns related to the novel coronavirus (COVID–19) pandemic. At its 44th Session, the Commission will consider adopting standards recommended by committees at Step 8 or 5/8 (final adoption) and advance the work of committees by adopting draft standards at Step 5 (for further comment and consideration by the relevant committee). The Commission will also consider revocation of Codex texts; proposals for new work; discontinuation of work; amendments to Codex standards and related texts; and other matters arising from the Reports of the Executive Committee and subsidiary bodies. Although the agenda for the 44th Session is not yet available, it is expected that the Commission will also consider Codex budgetary and financial matters; FAO/WHO scientific support to Codex (activities, budgetary and financial matters); matters arising from FAO/WHO; reports of side events; election of the chairperson and vice-chairpersons and members of the Executive Committee elected on a geographical basis; designation of countries responsible for appointing the chairpersons of Codex subsidiary bodies; any other business; and adoption of the report.

Before the Commission meeting, the Executive Committee (CCEXEC) is scheduled to meet virtually, due to COVID–19 related issues, for its 81st Session on November 1–5, 2021. CCEXEC is composed of the Commission chairperson; vice-chairpersons; seven members elected by the Commission from each of the following geographic regions: Africa, Asia, Europe, Latin America and the Caribbean, Near East, North America, and South-West Pacific; and regional coordinators from the six regional coordinating committees. The United States will participate as the member elected on a geographical basis for North America. The Executive Committee agenda for the 81st session is not yet available.

Responsible Agency: USDA/TFAA/USCO.

U.S. Participation: Yes.

Codex Committee on Cereals, Pulses and Legumes

The Codex Committee on Cereals, Pulses and Legumes (CCCPL) elaborates worldwide standards and/or Codes of Practice, as appropriate, for cereals, pulses and legumes and their products.

Since there was no consensus to include the section on grain size in the *Standard for Quinoa, CCCPL* adjourned *sine die* following the 43rd session of the Commission (CAC43, virtual session, September 24–November 6, 2020).

Responsible Agencies: HHS/FDA/Center for Food Safety and Applied Nutrition (CFSAN).

U.S. Participation: Yes.

Codex Committee on Contaminants in Foods

The Codex Committee on Contaminants in Foods (CCCF) establishes or endorses recommended maximum levels (MLs) to be legally permitted in a commodity, and, where necessary, revises existing guideline levels (GLs) for contaminants and naturally occurring toxicants in food and feed; prepares priority lists of contaminants and naturally occurring toxicants for risk assessment by the Joint FAO/WHO Expert Committee on Food Additives (JECFA); considers and elaborates methods of analysis and sampling for the determination of contaminants and naturally occurring toxicants in food and feed; considers and elaborates standards or codes of practice (CoPs) for related subjects; and

considers other matters assigned to it by the Commission in relation to contaminants and naturally occurring toxicants in food and feed.

The 14th Session of the CCCF, originally scheduled for April 20–24, 2020, in Utrecht, Netherlands, was rescheduled due to ongoing concerns related to the Coronavirus (COVID–19) pandemic. The Committee met virtually on May 3–13, 2021.

The Committee considered the following items that will be considered by the 44th Session of the Commission.

• Proposed draft revision of the *Code of Practice for the Prevention and Reduction of Lead Contamination in Foods* (CXS 56–2004) (recommended for final adoption);

• Proposed draft MLs for cadmium in chocolate and chocolate products containing or declaring ≥30% to <50% total cocoa solids on a dry matter basis (recommended for final adoption); Proposed draft code of practice for the prevention and reduction of cadmium contamination in cocoa beans at Step 5 (interim adoption;

• Proposals for new work on MLs for methylmercury in additional fish species; sampling plans and other risk management recommendations (recommended by CCCF for approval of new work).

The Committee will continue working on:

Proposed draft MLs for cocoa powder (100% total cocoa solids on a dry matter basis);

• Proposed draft MLs for lead in selected commodities for inclusion in the *General Standard for Contaminants and Toxins in Food and Feed* (GSCTFF) (CXS 193–1995);

• Proposed draft MLs for total aflatoxins in certain cereals and cereal based products including foods for infants and young children;

• Proposed draft ML for total aflatoxins in ready-to-eat peanuts and associated sampling plan;

• Proposed draft MLs for total aflatoxins and ochratoxin A in nutmeg, dried chili and paprika, ginger, pepper and turmeric, and associated sampling plans;

• Discussion paper on the CoP for the prevention and reduction of mycotoxin contamination in cassava and cassava-based products;

• General guidance on data analysis for ML development and for improved data collection;

• Discussion paper on approach to identify the need for revision of standards and related texts developed by CCCF;

• Forward work plan for CCCF, including:

○ Review of staple food-contaminant combinations for future work of CCCF;

• Priority list of contaminants and naturally occurring toxicants for evaluation by JECFA; and

• Follow-up work to the outcome of JECFA evaluations.

Responsible Agencies: HHS/FDA; USDA/Food Safety and Inspection Service (FSIS).

U.S. Participation: Yes.

Codex Committee on Food Additives

The Codex Committee on Food Additives (CCFA) establishes or endorses acceptable maximum levels (MLs) for individual food additives; prepares a priority list of food additives for risk assessment by the JECFA; assigns functional classes to individual food additives; recommends specifications of identity and purity for food additives for adoption by the Codex Alimentarius Commission; considers methods of analysis for the determination of additives in food; and considers and elaborates standards or codes of practice for related subjects such as the labeling of food additives when sold as such.

The 52nd Session of the CCFA, originally scheduled for March 2–6, 2020, in Lanzhou, China, was postponed due to ongoing concerns related to the coronavirus (COVID–19) pandemic. The Committee is scheduled to meet virtually on September 1–10, 2021.

The Committee will continue working on:

• Draft and Proposed draft food additive provisions of the *General Standard for Food Additives* (GSFA) (electronic and physical working groups led by the United States);

• Proposals for additions and changes to the priority list of substances proposed for evaluation by JECFA (physical working group (PWG) led by Canada);

• Alignment of the food additive provisions of commodity standards and relevant provisions of the GSFA (electronic working group (EWG) led by Australia, Japan and the United States);

• Revision of the class names and the international numbering system for food additives (EWG led by Belgium);

• Provisions related to the use of sweeteners with Note 161 attached to (1) determine if sweeteners or flavor enhancers are justified in specific food categories and (2) developing wording for an alternative to Note 161 relating to the use of sweeteners or flavor enhancers in food categories where the use is technologically justified;

• Issues with the online GSFA which prevent the implementation of Committee decisions and to inform the Executive Committee on this matter.

The Committee will hold a one and half day PWG on the GSFA immediately preceding the 52nd Session of CCFA, to be chaired by the United States. That group will discuss:

• The recommendations of the EWG on the GSFA and new proposals and proposed revisions of food additive provisions in the GSFA.

The Committee will hold a half day PWG immediately preceding the 52nd Session of CCFA on alignment of the food additive provisions of commodity standards and relevant provisions of the GSFA, to be chaired by Australia. That group will discuss the recommendations of the EWG on alignment.

Responsible Agency: HHS/FDA/CFSAN.

U.S. Participation: Yes.

Codex Committee on Food Hygiene

The Codex Committee on Food Hygiene (CCFH) is responsible for developing basic provisions on food hygiene, applicable to all food; considering and amending or endorsing provisions on food hygiene contained in Codex commodity standards and Codex codes of practice developed by other committees; considering specific food hygiene problems assigned to it by the Commission; suggesting and prioritizing areas where there is a need for microbiological risk assessment at the international level and developing questions to be addressed by the risk assessors; and considering microbiological risk management matters in relation to food hygiene and in relation to the FAO/WHO risk assessments.

The 52nd Session of CCFH (CCFH52), originally scheduled for November 16–20, 2020, in San Diego, California, United States, has been postponed due to ongoing concerns related to the coronavirus (COVID–19) pandemic. CCFH52 is scheduled to convene November 29–December 3, 2021.

Since the 44th Session of the Commission will convene prior to the 52nd Session of the CCFH, the Committee will continue working on:

• Diagram/decision tree to accompany the draft revision of the *General Principles of Food Hygiene* (CXC 1–1969);

• Redrafting proposed draft guidelines for the control of Shiga toxin producing *Escherichia coli* (STEC) in raw beef, raw milk and raw milk cheeses, fresh leafy vegetables, and sprouts;

• Guidelines for the safe use and reuse of water in food production; and

• New work proposals/forward workplan.

Responsible Agencies: HHS/FDA/CFSAN; USDA/FSIS.

U.S. Participation: Yes.

Codex Committee on Food Import and Export Inspection and Certification Systems

The Codex Committee on Food Import and Export Inspection and Certification Systems (CCFICS) is responsible for developing principles and guidelines for food import and export inspection and certification systems, with a view to harmonizing methods and procedures that protect the health of consumers, ensure fair trading practices, and facilitate international trade in foodstuffs; developing principles and guidelines for the application of measures by the competent authorities of exporting and importing countries to provide assurance, where necessary, that foodstuffs comply with requirements, especially statutory health requirements; developing guidelines for the utilization, as and when appropriate, of quality assurance systems to ensure that foodstuffs conform with requirements and promote the recognition of these systems in facilitating trade in food products under bilateral/multilateral arrangements by countries; developing guidelines and criteria with respect to format, declarations, and language of such official certificates as countries may require with a view towards international harmonization; making recommendations for information exchange in relation to food import/export control; consulting as necessary with other international groups working on matters related to food inspection and certification systems; and considering other matters assigned to it by the Commission in relation to food inspection and certification systems.

The 25th Session of the CCFICS, originally scheduled for April 27–May 1, 2020, in Hobart, Tasmania, Australia, was postponed due to ongoing concerns related to the coronavirus (COVID–19) pandemic. The Committee is scheduled to meet virtually on May 31–June 8, 2021.

The Committee will continue working on:

• Draft principles and guidelines for the assessment and use of voluntary Third-Party Assurance (vTPA) programs;

• Proposed draft guidance on paperless use of electronic certificates (revision of the *Guidelines for Design, Production, Issuance and Use of Generic Official Certificates* (CXG 38–2001));

• Proposed draft guidelines on recognition and maintenance of equivalence of National Food Control Systems (NFCS);

• Proposed draft consolidated Codex Guidelines related to equivalence; and

• Discussion paper on role of CCFICS with respect to tackling food fraud in the context of food safety and fair practices in food trade.

• Review and update the list of emerging global issues.

Responsible Agencies: USDA/FSIS; HHS/FDA/CFSAN.

U.S. Participation: Yes.

Codex Committee on Food Labelling

The Codex Committee on Food Labelling (CCFL) drafts provisions on labeling applicable to all foods; considers, amends, and endorses draft specific provisions on labeling prepared by the Codex Committees drafting standards, codes of practice, and guidelines; and studies specific labeling problems assigned to it by the Codex Alimentarius Commission. The Committee also studies problems associated with the advertisement of food with particular reference to claims and misleading descriptions.

The 46th Session of the CCFL is scheduled to meet virtually, due to ongoing concerns related to the coronavirus (COVID–19) pandemic, on September 27–October 1, 2021. At this time, CCFL does not have any items to be considered for adoption or approval by the 44th Session of the Commission.

The Committee will continue working on:

• Draft Guidance for the Labelling of Non-Retail Containers;

• Proposed draft Guidelines on Front-of-Pack Nutrition Labeling;

• Proposed draft Guidelines on internet Sales/e-Commerce;

• Proposed draft revision to the *General Standard for the Labelling of Prepackaged Foods:* Provisions relevant to allergen labeling and proposed draft Guidance on Precautionary Allergen Labeling;

• Discussion paper on innovation—use of technology in food labeling;

• Discussion paper on labeling of alcoholic beverages;

• Discussion Paper on labeling of foods in joint presentation and multipack formats; and

• Discussion paper on future work and direction of CCFL.

Responsible Agencies: HHS/FDA/CFSAN; USDA/FSIS.

U.S. Participation: Yes.

Codex Committee on Fats and Oils

The Codex Committee on Fats and Oils (CCFO) is responsible for elaborating worldwide standards for fats and oils of animal, vegetable, and marine origin, including margarine and olive oil.

The Committee is scheduled to host its 27th session virtually on October 18–26, 2021.

The Committee will continue working on:

• Revision of the *Standard for Named Vegetable Oils* (CXS 201–1999): Essential composition of sunflower seed oils;

• Revision of the *Standard for Named Vegetable Oils* (CXS 210–1999): Inclusion of avocado oil;

• Revision of the *Standard for Olive Oils and Pomace Olive Oils* (CXS 33–1981); and

• Proposals for new substances to be added to the list of acceptable previous cargo (Appendix II to RCP 36–1987).

Responsible Agencies: HHS/FDA/CFSAN; USDA/Agricultural Research Service (ARS).

U.S. Participation: Yes.

Codex Committee on Fish and Fishery Products

The Committee on Fish and Fishery Products (CCFFP) is responsible for elaborating standards for fresh, frozen, and otherwise processed fish, crustaceans, and mollusks. The 35th session of CCFFP will work by correspondence from September 20th to October 20th, 2021.

The Committee will work on the following item:

• To evaluate if the Standard for Canned Sardines and Sardine-Type Products (CXS 94–1981) could be amended to include the fish species S. lemuru (Bali Sardinella) in the list of Sardinella species under section 2.1.

Responsible Agencies: HHS/FDA; DOC/NOAA/National Marine Fisheries Service (NMFS).

U.S. Participation: Yes.

Codex Committee on General Principles

The Codex Committee on General Principles (CCGP) is responsible for procedural and general matters referred to it by the Codex Alimentarius Commission, including: (a) The review or endorsement of procedural provisions/texts forwarded by other subsidiary bodies for inclusion in the *Procedural Manual* of the Codex Alimentarius Commission; and (b) The consideration and recommendation of other amendments to the *Procedural Manual.*

The 32nd Session of the CCGP met virtually February 8–17, 2021 and completed work on the following item, to be considered by the 44th Session of the Commission:

• Procedural guidance for committees working by correspondence.

The Codex Secretariat is expected to present a proposal on revisions/amendments to Codex texts to CAC44 for possible referral to CCGP. The 33rd Session of the CCGP is projected for early Fall 2022 in France. Depending on the outcome of consideration by the Commission (CAC44), the Committee may continue discussions on:

• Revisions/amendments to Codex texts; and

• Format and structure of the Codex *Procedural Manual.*

Responsible Agencies: USDA/TFAA/USCO and HHS/FDA/CFSAN.

U.S. Participation: Yes.

Codex Committee on Methods of Analysis and Sampling

The Codex Committee on Methods of Analysis and Sampling (CCMAS) defines the criteria appropriate to Codex Methods of Analysis and Sampling; serves as a coordinating body for Codex with other international groups working on methods of analysis and sampling and quality assurance systems for laboratories; specifies, on the basis of final recommendations submitted to it by the bodies referred to above, reference methods of analysis and sampling appropriate to Codex standards which are generally applicable to a number of foods; considers, amends if necessary, and endorses as appropriate, methods of analysis and sampling proposed by Codex (commodity) committees, except for those methods of analysis and sampling for residues of pesticides or veterinary drugs in food, the assessment of microbiological quality and safety in food, and the assessment of specifications for food additives; elaborates sampling plans and procedures, as may be required; considers specific sampling and analysis problems submitted to it by the Commission or any of its committees; and defines procedures, protocols, guidelines or related texts for the assessment of food laboratory proficiency, as well as quality assurance systems for laboratories.

The 41st Session of the CCMAS, originally scheduled for May 11–15, 2020, in Budapest, Hungary was postponed due to ongoing concerns related to the coronavirus (COVID–19) pandemic. CCMAS met virtually on May 17–21 and 25, 2021.

The Committee recommended the following matters for consideration by CAC44:

• Adoption of the following methods for inclusion in the *Recommended Methods of Analysis and Sampling* (CXS 234–1999): AOAC 2011.14/ISO 15151 | IDF 229 as Type III for calcium, copper, iron, magnesium, manganese, phosphorus, potassium, sodium and zinc in special foods;

• Adoption of an editorial amendment to the provision in Section 3.3 of *the Standard for Edible Casein Products* (CXS 290–1995) to change ''maximum free acid'' to ''maximum free acidity'' as this is a more appropriate description of the provision;

• Adoption of methods and numeric criteria for milk products as endorsed for inclusion in CXS 234–1999, to be accompanied by revocation of the existing methods;

• Final adoption at Step 8 of the revised *Guidelines on Measurement Uncertainty* (CXG 54–2004); and

• Interim adoption at Step 5 of the revised *General Guidelines on Sampling* (CXG 50–2004).

At its next session, the Committee will continue working on:

• Endorsement of Methods of Analysis and Sampling Plans for Provisions in Codex Standards;

• Revision of the Dairy Methods Workable Package;

• Revision of the Fats and Oils Methods Workable Package;

• Revision of the Cereals, Pulses, and Legumes Workable Package;

• Revision of the *General Guidelines on Sampling* (CXG 50–2004);

• Discussion on the Report of an Inter-Agency Meeting on Methods of Analysis; and

• Discussion Paper on Criteria to Select Type II Methods from Multiple Type III Methods.

Responsible Agencies: HHS/Food and Drug Administration (FDA)/Center for Food Safety and Nutrition (CFSAN); USDA/Agricultural Marketing Service (AMS).

U.S. Participation: Yes.

Codex Committee on Nutrition and Foods for Special Dietary Uses

The Codex Committee on Nutrition and Foods for Special Dietary Uses (CCNFSDU) is responsible for studying nutrition issues referred to it by the Codex Alimentarius Commission. The Committee also drafts general provisions, as appropriate, on nutritional aspects of all foods and develops standards, guidelines, or related texts for foods for special dietary uses in cooperation with other committees where necessary; considers, amends if necessary, and endorses provisions on nutritional aspects proposed for inclusion in Codex standards, guidelines, and related texts.

The Committee is scheduled to meet virtually from November 19–December 1, 2021. It does not have any items that will be considered for adoption or approval by the 44th Session of the Commission.

The Committee is expected to continue working on:

• Review of the *Standard for Follow-up Formula—Section A (Older Infants):* Scope, Description, and Labelling (CXS 156–1987);

• Review of the *Standard for Follow-up Formula—Section A (Older Infants) and Section B (Young Children):* Essential Composition Requirements (CXS 156–1987);

• Review of the *Standard for Follow-up Formula:* Remaining sections;

• Proposed draft Guideline for Ready-to-Use Therapeutic Foods (RUTF);

• Proposed draft General Principles for the establishment of NRVs–R for persons aged 6–36 months (CXG 2–1985);

• Discussion Paper on the development of nutrient profiling for labeling purposes; and

• Discussion Paper on the technological justification for several food additives.

Responsible Agencies: HHS/FDA/CFSAN; USDA/ARS.

U.S. Participation: Yes.

Codex Committee on Pesticide Residues

The Codex Committee on Pesticide Residues (CCPR) is responsible for establishing maximum residue limits (MRLs) for pesticide residues in specific food items or in groups of food; establishing MRLs for pesticide residues in certain animal feeding stuffs moving in international trade where this is justified for reasons of protection of human health; preparing priority lists of pesticides for evaluation by the Joint FAO/WHO Meeting on Pesticide Residues (JMPR); considering methods of sampling and analysis for the determination of pesticide residues in food and feed; considering other matters in relation to the safety of food and feed containing pesticide residues; and establishing maximum limits for environmental and industrial contaminants showing chemical or other similarity to pesticides in specific food items or groups of food.

The 52nd Session of the CCPR, originally scheduled for March 30–April 4, 2020, in Guangzhou, China, was postponed due to ongoing concerns related to the coronavirus (COVID–19) pandemic. The Committee is scheduled to meet virtually on July 26–31, 2021.

The CCPR agenda is currently unavailable and it is not yet possible to determine CCPR recommended adoptions or approvals at CAC44.

At its 52nd Session, the Committee is expected to consider:

- Revision of the *Classification of Food and Feed* (CXA 4–1989) for selected commodity groups:
  - Revision of Class C, animal feed commodities, taking into account silage, fodder, and a separate group for grasses;
  - Revision of Class D, processed food commodities;
  - Transferring commodities from Class D to Class C;
  - Creating tables with representative crops for Class C and D; and
  - Edible animal tissues (including edible offal), in collaboration with the Codex Committee on Residues of Veterinary Drugs in Foods (CCRVDF) EWG on edible animal tissues.
- Harmonization of mammalian meat MRLs between CCPR and CCRVDF;
- Establishment of a Codex database of national registration of pesticides;
- Establishment of JMPR schedules and priority lists for evaluations of pesticides;
- Discussion paper on the review of the international estimated short-term intake (IESTI) equations (possible revision);
- Guidelines for compounds of low public health concern that could be exempted from the establishment of Codex maximum residue limits for pesticides (CXLs);
- Management of unsupported compounds in the CCPR schedules and priority lists of pesticides for evaluation by the JMPR;
- Review of the *Guidelines on the use of mass spectrometry for the identification, confirmation and quantitative determination of pesticide residues* (CXG 56–2005) and the *Guidelines on performance criteria for methods of analysis for the determination of pesticide residues in food and feed* (CXG 90–2017); and
- Opportunities and challenges for JMPR participation in international review of a new compound.

Responsible Agencies: EPA/Office of Chemical Safety and Pollution Prevention (OCSPP)/Office of Pesticide Programs (OPP); USDA/FSIS.

U.S. Participation: Yes.

Codex Committee on Residues of Veterinary Drugs in Foods

The Codex Committee on Residues of Veterinary Drugs in Foods (CCRVDF) determines priorities for the consideration of residues of veterinary drugs in foods and recommends Maximum Residue Limits (MRLs) for veterinary drugs. The Committee also develops codes of practice, as may be required, and considers methods of sampling and analysis for the determination of veterinary drug residues in food.

The 25th Session of CCRVDF, originally scheduled for May 25–29, 2020, in San Diego, California, United States, has been postponed due to ongoing concerns related to the coronavirus (COVID–19) pandemic. The Committee is scheduled to meet virtually on July 12–16, 2021 with adoption of the report taking place on July 20, 2021.

The Committee will continue working on:

- Draft MRL for flumethrin (honey);
- Draft MRLs for diflubenzuron (salmon—muscle plus skin in natural proportion); halquinol (in swine—muscle, skin plus fat, liver and kidney); ivermectin (sheep, pigs and goats—fat, kidney, liver and muscle);
- Draft MRLs for zilpaterol hydrochloride (cattle fat, kidney, liver, muscle);
- Discussion paper on extrapolation of MRLs to one or more species (including a pilot on extrapolation of MRLs identified in Part D of the Priority List—REP18/RVDF, App. VI);
- Discussion paper on the development of a harmonized definition for edible tissues of animal origin (including edible offal) (in coordination with CCPR);
- Discussion paper on advantages and disadvantages of a parallel approach to compound evaluation;
- Database on countries' needs for MRLs; and
- Priority List of veterinary drugs requiring evaluation or re-evaluation by JECFA.

Responsible Agencies: HHS/FDA/Center for Veterinary Medicine (CVM); USDA/FSIS.

U.S. Participation: Yes.

Codex Committee on Spices and Culinary Herbs

The Codex Committee on Spices and Culinary Herbs (CCSCH)is responsible for elaborating worldwide standards for spices and culinary herbs in their dried and dehydrated state in whole, ground, and cracked or crushed form. CCSCH also consults, as necessary, with other international organizations in the standards development process to avoid duplication.

The Committee was scheduled to meet September 21–26, 2020 in Budapest, Hungary but was postponed due to ongoing concerns related to the coronavirus (COVID–19) pandemic. The Committee met virtually on April 20–29, 2021.

The Committee completed work on the following standards recommended for final adoption at Step 8 by CAC44:

- Draft Standard for Dried Oregano;
- Draft Standard for Dried Roots, Rhizomes, and Bulbs—Dried or Dehydrated Ginger (Updated);
- Draft Standard for Dried Basil; and
- Draft Standard for Dried Cloves.

The Committee also recommended the follow proposals for new work for approval by CAC44:

- Group Standard for Spices Derived from Dried Fruits and Berries;
- Standard for Small Cardamom; and
- Standard for Turmeric.

The Committee will continue working on:

- Draft Standard for Saffron;
- Draft Standard for Dried Nutmeg;
- Consideration of the Proposals for New Work; and
- Update to the Template for SCH Standards.

Responsible Agencies: USDA/AMS; HHS/FDA/CFSAN.

U.S. Participation: Yes.

Ad hoc Codex Intergovernmental Task Force on Antimicrobial Resistance

The *Ad hoc* Codex Intergovernmental Task Force on Antimicrobial Resistance (TFAMR) was reconvened in 2017 and is responsible for reviewing and revising, as appropriate, the Code of Practice to Minimize and Contain Antimicrobial Resistance (CAC/RCP 61–2005) to address the entire food chain, in line with the mandate of Codex; and considering the development of Guidance on Integrated Surveillance of Antimicrobial Resistance, taking into account the guidance developed by the WHO Advisory Group on Integrated Surveillance of Antimicrobial Resistance (AGISAR) and relevant World Organization for Animal Health (OIE) documents. The objective of the Task Force is to develop science-based guidance on the management of foodborne antimicrobial resistance, taking full account of the WHO Global Action Plan on Antimicrobial Resistance, in particular Objectives 3 and 4, the work and standards of relevant international organizations, such as FAO, WHO, and OIE, and the One-Health approach, to ensure members have the necessary guidance to enable coherent management of antimicrobial resistance along the food chain. The Task Force is expected to complete this work within three (or a maximum of four) sessions, beginning with TFAMR5 (2017).

The 8th Session of TFAMR (TFAMR8), originally scheduled for December 2020, in the Republic of Korea, was postponed due to ongoing concerns related to the coronavirus (COVID–19) pandemic. The Task Force is scheduled to meet virtually on October 4–9, 2021.

The Task Force has the following item to be considered by the 44th Session of the Commission, pending conclusion of discussion at the virtual session.

For final adoption at Step 8:

• Proposed draft revision of the *Code of Practice to Minimize and Contain Antimicrobial Resistance* (CXC 61–2005).

The TFAMR will continue working on:

• Proposed draft guidelines on integrated surveillance of antimicrobial resistance.

Responsible Agencies: HHS/FDA; USDA.

U.S. Participation: Yes.

Adjourned Codex Commodity Committees

Several Codex Alimentarius Commodity Committees have adjourned *sine die.* The following Committees fall into this category:

Processed Fruits and Vegetables—Adjourned 2020

Responsible Agency: USDA/AMS; HHS/FDA/CFSAN.

U.S. Participation: Yes.

Cereals, Pulses and Legumes—Adjourned 2020

Responsible Agency: HHS/FDA/CFSAN.

U.S. Participation: Yes.

Cocoa Products and Chocolate—Adjourned 2001

Responsible Agency: HHS/FDA/CFSAN.

U.S. Participation: Yes.

Meat Hygiene—Adjourned 2003

Responsible Agency: USDA/FSIS.

U.S. Participation: Yes.

Milk and Milk Products—Adjourned 2017

Responsible Agency: USDA/AMS; HHS/FDA/CFSAN.

U.S. Participation: Yes.

Natural Mineral Waters—Adjourned 2008

Responsible Agency: HHS/FDA/CFSAN.

U.S. Participation: Yes.

Sugars—Adjourned 2019

Responsible Agency: HHS/FDA/CFSAN.

U.S. Participation: Yes.

Vegetable Proteins—Adjourned 1989

Responsible Agency: USDA/ARS.

U.S. Participation: Yes.

FAO/WHO Regional Coordinating Committees

The FAO/WHO Regional Coordinating Committees define the problems and needs of the regions concerning food standards and food control; promote within the committees contacts for the mutual exchange of information on proposed regulatory initiatives and problems arising from food control and stimulate the strengthening of food control infrastructures; recommend to the Commission the development of worldwide standards for products of interest to the region, including products considered by the committees to have an international market potential in the future; develop regional standards for food products moving exclusively or almost exclusively in intra-regional trade; draw the attention of the Commission to any aspects of the Commission's work of particular significance to the region; promote coordination of all regional food standards work undertaken by international governmental and non-governmental organizations within each region; exercise a general coordinating role for the region and such other functions as may be entrusted to them by the Commission; and promote the use of Codex standards and related texts by members.

There are six regional coordinating committees:

• Coordinating Committee for Africa;

• Coordinating Committee for Asia;

• Coordinating Committee for Europe;

• Coordinating Committee for Latin America and the Caribbean;

• Coordinating Committee for the Near East; and

• Coordinating Committee for North America and the South West Pacific.

Coordinating Committee for Africa

Meetings are not taking place in 2021. Meetings will reconvene in 2022.

Responsible Party: USDA/TFAA/USCO.

U.S. Participation: Yes (as an observer).

Coordinating Committee for Europe

Meetings are not taking place in 2021. Meetings will reconvene in 2022.

Responsible Party: USDA/TFAA/USCO.

U.S. Participation: Yes (as an observer).

Coordinating Committee for Latin America and the Caribbean

Meetings are not taking place in 2021. Meetings will reconvene in 2022.

Responsible Party: USDA/TFAA/USCO.

U.S. Participation: Yes (as an observer).

Coordinating Committee for North America and the South West Pacific

Meetings are not taking place in 2021. Meetings will reconvene in 2022.

Responsible Party: USDA/TFAA/USCO.

U.S. Participation: Yes.

Coordinating Committee for the Near East

Meetings are not taking place in 2021. Meetings will reconvene in 2022.

Responsible Party: USDA/TFAA/USCO.

U.S. Participation: Yes (as an observer).

Contact Information

U.S. Codex Office, United States Department of Agriculture, Room 4861, South Agriculture Building, 1400 Independence Avenue SW, Washington, DC 20250–3700, Phone: +1 (202) 205–7760, Fax: +1 (202) 720–3157, Email: *uscodex@usda.gov.*

Attachment 2

U.S. Codex Alimentarius Officials

Chairpersons From the United States

Codex Committee on Cereals, Pulses and Legumes (Adjourned sine die 2020)

Henry Kim, Ph.D., Senior Policy Analyst, Office of Food Safety, Center for Food Safety and Applied Nutrition, U.S. Food and Drug Administration, 5001 Campus Drive (HFS–317), College Park, MD, USA 20740–3835, Phone: +1 (240) 402–2023, *henry.kim@fda.hhs.gov.*

Codex Committee on Food Hygiene

Emilio Esteban, DVM, MBA, MPVM, Ph.D., Chief Scientist, Office of Public Health Science, Food Safety and Inspection Service, U.S. Department of Agriculture, 1400 Independence Ave. SW, Room 2129—South Building, Washington, DC 20250, Phone: +1 (202) 690–9058, *emilio.esteban@usda.gov.*

Codex Committee on Processed Fruits and Vegetables

Robin Chilton, Chief, Standardization Branch, Specialty Crops Inspection Division, Specialty Crops Program, Agricultural Marketing Service, U.S. Department of Agriculture, 100 Riverside Parkway, Suite 101, Fredericksburg, VA 22406, Phone: +1 (540) 361–1130, *Robin.Chilton@usda.gov*

Codex Committee on Residues of Veterinary Drugs in Foods

Kevin Greenlees, Ph.D., DABT, Senior Advisor for Science and Policy, Office of New Animal Drug Evaluation, Center for Veterinary Medicine, U.S. Food and Drug Administration, 7500 Standish

Place (HFV–100), Rockville, MD 20855, Phone: +1 (240) 402–0638, Fax: +1 (240) 276–9538, *kevin.greenlees@fda.hhs.gov.*

U.S. Delegates and Alternate Delegates

Worldwide General Codex Subject Committees

Contaminants in Foods

(Host Government—The Netherlands)

U.S. Delegate: Lauren Posnick Robin, Sc.D., Branch Chief, Plant Products Branch, Division of Plant Products and Beverages, Office of Food Safety, Center for Food Safety and Applied Nutrition, U.S. Food and Drug Administration, 5001 Campus Drive (HFS–317), College Park, MD 20740, Phone: +1 (240) 402–1639, *lauren.robin@fda.hhs.gov.*

Alternate Delegate: Alexander Domesle Senior Advisor for Chemistry, Toxicology, and Related Sciences, U.S. Department of Agriculture, 1400 Independence Avenue SW, Washington, DC 20250, Phone: +1 202–720–9258, *alexander.domesle@usda.gov.*

Food Additives

(Host Government—China)

U.S. Delegate: Paul S. Honigfort, Ph.D., Director, Division of Food Contact Substances, Office of Food Additive Safety, U.S. Food and Drug Administration, 5001 Campus Drive (HFS–275), College Park, MD 20740, Phone: +1 (240) 402–1206, Fax: +1 (301) 436–2965, *paul.honigfort@fda.hhs.gov.*

Alternate Delegate: Daniel Folmer, Ph.D., Chemist, Center for Food Safety and Applied Nutrition, U.S. Food and Drug Administration, 5001 Campus Drive (Room 3017 HFS–265), College Park, MD 20740, Phone: +1 (240) 402–1274, *daniel.folmer@fda.hhs.gov.*

Food Hygiene

(Host Government—United States)

U.S. Delegate: Jenny Scott, Senior Advisor, Office of Food Safety, Center for Food Safety and Applied Nutrition, U.S. Food and Drug Administration, 5001 Campus Drive, HFS–300, Room 3B–014, College Park, MD 20740–3835, Phone: +1 (240) 402–2166, Fax: +1 (301) 436–2632, *jenny.scott@fda.hhs.gov.*

Alternate Delegate: William K. Shaw, Jr., Ph.D., Associate for Laboratory Services, Office of Public Health Science, U.S. Department of Agriculture, 1400 Independence Ave. SW, Room 3171, South Building, Washington, DC 20250, Phone: +1 (202) 720–6246, *william.shaw@usda.gov.*

Alternate Delegate: Andrew Chi Yuen Yeung, Ph.D., Branch Chief, Egg and Meat Products Branch, Division of Dairy, Egg and Meat Products, Office of Food Safety, Center for Food Safety and Applied Nutrition, U.S. Food and Drug Administration, 5001 Campus Drive, College Park, MD 20740, Phone: +1 (240) 402–1541, Fax: +1 (301) 436–2632, *andrew.yeung@fda.hhs.gov.*

Food Import and Export Certification and Inspection Systems

(Host Government—Australia)

U.S. Delegate: Mary Stanley, Senior Advisor, Office of International Coordination, Food Safety and Inspection Service, U.S. Department of Agriculture, 1400 Independence Avenue SW, Room 3151, Washington, DC 20250, Phone: +1 (202) 720–0287, Fax: +1 (202) 690–3856, *mary.stanley@usda.gov.*

Alternate Delegate: Jennifer Thomas, Senior Advisor, Office of the Center Director, Center for Food Safety and Applied Nutrition, U.S. Food and Drug Administration, 5001 Campus Drive, College Park, MD 20740, Phone: +1 (240) 420–2094, *jennifer.thomas@fda.hhs.gov.*

Food Labelling

(Host Government—Canada)

U.S. Delegate: Douglas Balentine, Ph.D., Senior Science Advisor, International Nutrition Policy, Center for Food Safety and Applied Nutrition, U.S. Food and Drug Administration, 5001 Campus Drive (HFS–830), College Park, MD 20740, Phone: +1 (240) 672–7292, Fax: +1 (301) 436–2636, *douglas.balentine@fda.hhs.gov.*

Alternate Delegate: Bryce Carson, Program Analyst, Office of Policy & Program Development, Food Safety and Inspection Service, U.S. Department of Agriculture, Denver Federal Center, Building 45, Entrance S–3, 695 Kipling Street, Denver, CO 80215, Phone: +1 (303) 236–9819, *bryce.carson@usda.gov.*

General Principles

(Host Government—France)

U.S. Delegate: Mary Frances Lowe, U.S. Manager for Codex Alimentarius, U.S. Codex Office, U.S. Department of Agriculture, 1400 Independence Avenue SW, Room 4861, Washington, DC 20250, Phone: +1 (202) 720–2057, *maryfrances.lowe@usda.gov.*

Methods of Analysis and Sampling

(Host Government—Hungary)

U.S. Delegate: Gregory Noonan, Ph.D., Director, Division of Bioanalytical Chemistry, Center for Food Safety and Applied Nutrition, Food and Drug Administration, 5001 Campus Drive, College Park, MD 20740, Phone: +1 (240) 402–2250, Fax: +1 (301) 436–2332, *gregory.noonan@fda.hhs.gov.*

Alternate Delegate: Timothy Norden, Ph.D., Technology and Science Division, Federal Grain Inspection Program, Agricultural Marketing Service, U.S. Department of Agriculture, 10383 N Ambassador Drive, Kansas City, MO 64153, Phone: +1 (816) 891–0470, Fax: +1 (816) 872–1253, *timothy.d.norden@usda.gov.*

Nutrition and Foods for Special Dietary Uses

(Host Government—Germany)

U.S. Delegate: Douglas Balentine, Ph.D., Senior Science Advisor International Nutrition Policy, Center for Food Safety and Applied Nutrition, U.S. Food and Drug Administration, 5001 Campus Drive (HFS–830), College Park, MD 20740, Phone: +1 (240) 672–7292, Fax: +1 (301) 436–2636, *douglas.balentine@fda.hhs.gov.*

Alternate Delegate: Pamela R. Pehrsson, Ph.D., Lead Scientist, Methods and Application of Food Composition Laboratory, Agricultural Research Service, U.S. Department of Agriculture, Room 105, Building 005, BARC-West, 10300 Baltimore Avenue, Beltsville, MD 20705, Phone: +1 (301) 504–0630, Fax: +1 (301) 504–0632, *pamela.pehrsson@usda.gov.*

Pesticide Residues

(Host Government—China)

U.S. Delegate: CAPT David Miller, Chief, Chemistry and Exposure Branch, Health Effects Division, Office of Pesticide Programs, U.S. Environmental Protection Agency, William Jefferson Clinton Building, 1200 Pennsylvania Avenue NW, Washington, DC 20460, Phone: +1 (703) 328–8755, *miller.davidj@epa.gov.*

Alternate Delegate: Alexander Domesle, Senior Advisor for Chemistry, Toxicology, and Related Sciences, Food Safety and Inspection Service, U.S. Department of Agriculture, 1400 Independence Avenue SW, Washington, DC 20250, Phone: +1 (202) 720–9258, *alexander.domesle@usda.gov.*

Residues of Veterinary Drugs in Foods

(Host Government—United States)

U.S. Delegate: Brandi Robinson, MPH, CPH, ONADE International Coordinator, Center for Veterinary Medicine, U.S. Food and Drug Administration, 7500 Standish Place (HFV–100), Rockville, MD 20855, Phone: +1 (240) 402–0645, *brandi.robinson@fda.hhs.gov.*

Alternate Delegate: Louis Bluhm, Ph.D., Director, Laboratory Quality Assurance Division, Office of Public Health Science, Food Safety and Inspection Service, U.S. Department of Agriculture, Russell Research Center, 950 College Station Road, Suite PB–4,

Athens, GA 30605, Phone: +1 (706) 546–2359, *louis.bluhm@usda.gov.*

Worldwide Commodity Codex Committees (Active)

Fats and Oils

(Host Country—Malaysia)

U.S. Delegate: Paul South, Ph.D., Director, Division of Plant Products and Beverages, Office of Food Safety, Center for Food Safety and Applied Nutrition, U.S. Food and Drug Administration, 5001 Campus Drive (HFS–317), College Park, MD 20740, Phone: +1 (240) 402–1640, Fax: +1 (301) 436–2632, *paul.south@fda.hhs.gov.*

Alternate Delegate: Jill K. Moser, Ph.D., Lead Scientist, Functional Oil Research, Agricultural Research Service, National Center for Agricultural Utilization Research, U.S. Department of Agriculture, 1815 North University Street, Peoria, IL 61604, Phone: +1 (309) 681–6390, *jill.moser@usda.gov.*

Fish and Fishery Products

(Host Government—Norway)

U.S. Delegate: Nomination Currently Underway.

Alternate Delegate: Steven Wilson, Deputy Director, Office of International Affairs and Seafood Inspection, National Marine Fisheries Service, National Oceanic and Atmospheric Administration, U.S. Department of Commerce, 1315 East-West Highway, Silver Spring, Maryland 20910, Phone: +1 (301) 427–8312, *steven.wilson@noaa.gov.*

Fresh Fruits and Vegetables

(Host Government—Mexico)

U.S. Delegate: Dorian LaFond, International Standards Coordinator, Fruit and Vegetables Program, Specialty Crop Inspection Division, Agricultural Marketing Service, U.S. Department of Agriculture, 1400 Independence Avenue SW—Mail Stop 0247, Washington, DC 20250–0247, Phone: +1 (202) 690–4944, Fax: +1 (202) 690–1527, *dorian.lafond@usda.gov.*

Alternate Delegate: David T. Ingram, Ph.D., Consumer Safety Officer, Office of Food Safety, Fresh Produce Branch, Division of Produce Safety, Center for Food Safety and Applied Nutrition, U.S. Food and Drug Administration, 5001 Campus Drive, Room 3E027, College Park, MD 20740–3835, Phone: +1 (240) 402–0335, *david.ingram@fda.hhs.gov.*

Processed Fruits and Vegetables

(Host Government—United States)

U.S. Delegate: Dorian LaFond, International Standards Coordinator, Fruit and Vegetables Program, Specialty Crop Inspection Division, Agricultural Marketing Service, U.S. Department of Agriculture, 1400 Independence Avenue SW—Mail Stop 0247, Washington, DC 20250–0247, Phone: +1 (202) 690–4944, Fax: +1 (202) 690–1527, *dorian.lafond@usda.gov.*

Alternate Delegate: Rhoma Johnson, Ph.D., Consumer Safety Officer, Division of Plant Products and Beverages, Office of Food Safety, Center for Food Safety and Applied Nutrition, U.S. Food and Drug Administration, 5001 Campus Drive (HFS–317), College Park, MD 20740, Phone: +1 (240) 402–2066, *rhoma.johnson@fda.hhs.gov.*

Spices and Culinary Herbs

(Host Government—India)

U.S. Delegate: Dorian LaFond, International Standards Coordinator, Agricultural Marketing Service Specialty Crops Program, Specialty Crops Inspection Division, Agricultural Marketing Service, U.S. Department of Agriculture, 1400 Independence Avenue SW—Mail Stop 0247, Washington, DC 20250–0247, Phone: +1 (202) 690–4944, Fax: +1 (202) 690–1527, *dorian.lafond@usda.gov.*

Alternate Delegate: Aparna Tatavarthy, Ph.D. Microbiologist, Spices and Seasoning Mixes Team, Division of Plant Products and Beverages, Office of Food Safety, Center for Food Safety and Applied Nutrition, U.S. Food and Drug Administration, 5001 Campus Drive (HFS–317), College Park, MD 20740, Phone: +1 (240) 402–1013, Fax: +1 (301) 436–2632, *aparna.tatavarthy@fda.hhs.gov.*

Worldwide Ad Hoc Codex Task Forces (Active)

Antimicrobial Resistance (Reactivated 2016)

(Host Government—Republic of Korea)

U.S. Delegate: Donald A. Prater, DVM, Associate Commissioner for Foods and Veterinary Medicine, Office of Foods and Veterinary Medicine, U.S. Food and Drug Administration, 10903 New Hampshire Avenue, Silver Spring, MD 20993, Phone: +1 (301) 348–3007, *donald.prater@fda.hhs.gov.*

Alternate Delegate: Neena Anandaraman, DVM, MPH, Veterinary Science Policy Advisor, Office of the Chief Scientist, U.S. Department of Agriculture, Jamie L. Whitten Building, Room 339A, 1200 Independence Avenue SW, Washington, DC 20024, Phone: +1 (202) 431–0073, *neena.anandaraman@usda.gov.*

Worldwide Commodity Codex Committees (Adjourned)

Cereals, Pulses and Legumes (Adjourned sine die 2020)

(Host Government—United States)

U.S. Delegate: Henry Kim, Ph.D., Senior Policy Analyst, Office of Food Safety, Center for Food Safety and Applied Nutrition, U.S. Food and Drug Administration, 5001 Campus Drive (HFS–317), College Park, MD, USA 20740–3835, Phone: +1 (240) 402–2023, *henry.kim@fda.hhs.gov.*

Alternate Delegate: Patrick McCluskey, Supervisory Agricultural Marketing Specialist, Agricultural Marketing Service, Federal Grain Inspection Service, U.S. Department of Agriculture, 10383 N Ambassador Drive, Kansas City, MO 64153, Phone: +1 (816) 659–8403, *patrick.j.mccluskey@usda.gov.*

Cocoa Products and Chocolate (Adjourned sine die 2001)

(Host Government—Switzerland)

U.S. Delegate: Michelle Smith, Ph.D., Senior Policy Analyst, Office of Food Safety, Center for Food Safety and Applied Nutrition, U.S. Food and Drug Administration, 5001 Campus Drive (HFS–317), College Park, MD 20740–3835, Phone: +1 (240) 402–2024, Fax: +1 (301) 436–2632, *michelle.smith@fda.hhs.gov.*

Meat Hygiene (Adjourned sine die 2003)

(Host Government—New Zealand)

Delegate: Vacant.

Milk and Milk Products (Adjourned sine die 2017)

(Host Government—New Zealand)

U.S. Delegate: Christopher Thompson, Chief, Dairy Standardization Branch, Agricultural Marketing Service, U.S. Department of Agriculture, 1400 Independence Avenue SW, Mail Stop 0230, Room 2756, Washington, DC 20250, Phone: +1 (202) 720–9382, Fax: +1 (844) 804–4701, *christopher.d.thompson@usda.gov.*

Alternate Delegate: John F. Sheehan, Senior Advisor for Compliance and Enforcement, Office of Food Safety, Center for Food Safety and Applied Nutrition, U.S. Food and Drug Administration (HFS–315), Harvey W. Wiley Federal Building, 5001 Campus Drive, College Park, MD 20740, Phone: +1 (240) 402–1488, Fax: +1 (301) 436–2632, *john.sheehan@fda.hhs.gov.*

Natural Mineral Waters (Adjourned sine die 2008)

(Host Government—Switzerland)

Delegate: Vacant.

Codex Committee on Sugars (CCS) (Adjourned sine die 2019)

(Host Government—Colombia)

U.S. Delegate: Chia-Pei Charlotte Liang, Ph.D., Chemist, Office of Food Safety, Center for Food Safety and Applied Nutrition, U.S. Food and Drug Administration, 5001 Campus Drive, College Park, MD 20740, Phone: +1 (240) 402–2785, *charlotte.liang@fda.hhs.gov.*

Vegetable Proteins (Adjourned sine die 1989)

(Host Government—Canada)

Delegate: Vacant.

Ad Hoc Intergovernmental Task Forces (Dissolved)

Animal Feeding (Dissolved 2013)

(Host Government—Switzerland)

Delegate: Vacant.

[FR Doc. 2021–11719 Filed 6–3–21; 8:45 am]

BILLING CODE P

DEPARTMENT OF AGRICULTURE

Forest Service

Forest Service Manual 1800, Chapter 20

AGENCY: Forest Service, USDA.

ACTION: Notice of availability for public comment.

SUMMARY: The United States Department of Agriculture (USDA), Forest Service is proposing to issue a proposed directive to revise direction on workforce partnerships authorized by the Public Lands Corps Act as amended by the John D. Dingell, Jr. Conservation, Management, and Recreation Act of 2019. Directive revisions expand guidance regarding partnerships with non-profits, Tribes, universities and other organizations that offer community and national service, work experience and training to youth, young adults and veterans and help the Forest Service accomplish critical work; improve procedures and requirements to enroll young adults and veterans in work programs and on Forest Service units, using partnership agreements authorized by the Public Lands Corps and Resource Assistants Program statute; and, clarifies guidance about how young adults and others enrolled working with the Forest Service under these authorities can become eligible for special hiring pathways to Forest Service jobs.

DATES: Comments must be received in writing by July 6, 2021.

ADDRESSES: The proposed directive may be reviewed, and comments may be submitted electronically to *https://cara.ecosystem-management.org/Public/CommentInput?project=ORMS-2661.* Written comments may be mailed to Merlene Mazyck, Program Manager, Recreation, Heritage and Volunteers Resources Staff, 1400 Independence Avenue SW, Washington, DC 20250–1124. All timely received comments, including names and addresses, will be placed in the record and will be available for public inspection and copying. The public may inspect comments received at *https://cara.ecosystem-management.org/Public/ReadingRoom?project=ORMS-2661.*

FOR FURTHER INFORMATION CONTACT: Merlene Mazyck, Program Manager, *SM.FS.WOVolServ@usda.gov,* 202–306–9084. Individuals who use telecommunication devices for the hearing-impaired may call the Federal Relay Service at 800–877–8339 between 8:00 a.m. and 8:00 p.m., Eastern Daylight Time, Monday through Friday.

SUPPLEMENTARY INFORMATION: The 21st Century Conservation Service Corps (21CSC) is a public-private partnership that employs young adults, veterans, and emerging professionals to strengthen infrastructure, boost local economies and multiply returns on our country's most valuable assets: Its unmatched landscapes and people. A Public Lands Corps program, 21CSC projects support conservation priorities and develop the next generation of conservation stewards. The 21CSC projects are diverse and support all facets of Forest Service work. Program objectives are to build rural and urban economies, promote workforce development and hiring outcomes, address facility and maintenance backlogs and improve infrastructure, and increase public and private sector collaboration on Forest Service land management projects or programs.

The Resource Assistants Program (RAP) is a rigorous and immersive paid experience for U.S. citizens or permanent residents interested in natural and cultural resources careers who are at least 17 years old. Resource assistants are recruited by partner organizations and work under the direction of Forest Service staff to accomplish mission-critical work that develops leadership, critical thinking, and strategic communication skills. Through collaboration, coaching, and mentorship, resource assistants launch their careers and expand their understanding of our Nation's natural and cultural resources and land management priorities. Women and recent graduates from institutions of higher education, especially Historically Black Colleges and Universities, Hispanic-Serving Institutions, and Tribal Colleges and Universities, are strongly encouraged to apply to opportunities posted with our partner organizations. Program objectives are to attract and retain a diverse and inclusive workforce, accomplish mission-critical work and high priority projects, promote career exploration and professional development for recent graduates and underrepresented populations, and facilitate Forest Service coaching and mentoring of emerging professionals.

The Forest Service has determined that the changes to the manual formulate standards, criterion, or guidelines applicable to a Forest Service program and is therefore publishing the proposed manual for public comment in accordance with 36 CFR part 216. The Forest Service is seeking public comment on the proposed directive, including the sufficiency of the proposed directives in meeting its stated objectives, ways to enhance the utility and clarity of information within the direction, and ways to streamline processes outlined.

Forest Service National Environmental Policy Act procedures exclude from documentation in an environmental assessment or impact statement ''rules, regulations, or policies to establish servicewide administrative procedures, program processes, or instructions.'' 36 CFR 220.6(d)(2). The Agency's conclusion is that these proposed directives fall within this category of actions and that no extraordinary circumstances exist as currently defined that require preparation of an environmental assessment or an environmental impact statement.

After the public comment period closes, the Forest Service will consider timely comments that are within the scope of the proposed directives in the development of the final directives. A notice of the final directives, including a response to timely comments, will be posted on the Forest Service's web page at *https://www.fs.fed.us/about-agency/regulations-policies.*

Dated: May 28, 2021.

Tina Johna Terrell,

Acting Deputy Chief, National Forest System.

[FR Doc. 2021–11730 Filed 6–3–21; 8:45 am]

BILLING CODE 3411–15–P

DEPARTMENT OF AGRICULTURE

Forest Service

Forest Service Handbook (FSH) 5509.11, Chapter Twenty, Section 21; Title Claims, Sales, and Grants Handbook; Sales

AGENCY: Forest Service, USDA.

ACTION: Notice of availability for public comment.

SUMMARY: Following 2018 Farm Bill amendments to the Small Tracts Act (STA), the U.S. Forest Service is revising directives implementing the STA. These revisions are necessary to bring the Agency into alignment with the 2018 Farm Bill, specifically regarding the valuation of land the Agency sells or exchanges to keep pace with increasing market value, as well as expanding the categories of land that can be sold or exchanged.

DATES: Comments must be received in writing by July 6, 2021.

ADDRESSES: Comments may be submitted electronically to *https://cara.ecosystem-management.org/Public/CommentInput?project=ORMS-2755.* Written comments may be mailed to Betty M. Jewett, Lands Program Specialist, 201 14th Street SW, Washington, DC 20024. All timely received comments, including names and addresses, will be placed in the record and will be available for public inspection and copying. The public may inspect comments received at *https://cara.ecosystem-management.org/Public/ReadingRoom?project=ORMS-2755.*

FOR FURTHER INFORMATION CONTACT: Betty M. Jewett at 770.540.4800 or by electronic mail to *betty.jewett@usda.gov.* Individuals using telecommunication devices for the hearing-impaired may call the Federal Information Relay Service at 800–877–8339 between 8 a.m. and 8 p.m. Eastern Daylight Time, Monday through Friday.

SUPPLEMENTARY INFORMATION: The Forest Service is revising its regulations and directive implementing the Small Tracts Act due to amendments made to it by the 2018 Farm Bill. The amendments update the value of lands the Agency can sell or exchange to keep up with increasing land values. This directive also expand the categories of lands that can be sold or exchanged under the STA. Proceeds generated from eligible sales made under the Small Tracts Act may be deposited in a Sisk Act account, allowing the Agency to acquire lands that improve the health and productivity of National Forests while simultaneously disposing small, problematic parcels. The following are the specific changes that are covered throughout Forest Service Handbook (FSH) 5509.11, Chapter 20, section 21:

- The land value threshold for eligible parcels will increase to $500,000 from $150,000.
- A category will be added for cemeteries, landfills, and sewer treatment plants authorized under a special use authorization or other authorization by the Secretary of Agriculture.
- A category will be added for parcels 10 acres or less encroached upon by permanent, habitable improvements where there is no evidence the encroachment is intentional or negligent.
- A category will be added for parcels 40 acres or less that are physically isolated, inaccessible, or lack National Forest characteristics.

The proposed directives update Forest Service Handbook 5509.11, Chapter 20, section 21. This directive set forth policy, responsibilities, and direction for several aspects of management and implement the Agency's goal of providing more current direction.

The Forest Service has determined that the changes to the handbook formulate standards, criterion, or guidelines applicable to a Forest Service program and are therefore publishing the proposed handbook for public comment in accordance with 36 CFR part 216. The Forest Service is seeking public comment on the proposed directive, including the sufficiency of the proposed directive in meeting its stated objectives, ways to enhance the utility and clarity of information within the direction, or ways to streamline processes outlined.

Forest Service NEPA procedures exclude from documentation in an environmental assessment or impact statement ''rules, regulations, or policies to establish Service-wide administrative procedures, program processes, or instructions.'' 36 CFR 220.6(d)(2). The Agency's conclusion is that this proposed directive falls within this category of actions and that no extraordinary circumstances exist as currently defined that require preparation of an environmental assessment or an environmental impact statement.

After the public comment period closes, the Forest Service will consider timely comments that are within the scope of the proposed directive in the development of the final directive. A notice of the final directive, including a response to timely comments, will be posted on the Forest Service's web page at *https://www.fs.fed.us/about-agency/regulations-policies/comment-on-directives.*

Dated: May 24, 2021.

Tina Johna Terrell,

Acting Deputy Chief, National Forest System.

[FR Doc. 2021–11731 Filed 6–3–21; 8:45 am]

BILLING CODE 3411–15–P

COMMISSION ON CIVIL RIGHTS

Notice of Public Meeting of the New York Advisory Committee

AGENCY: Commission on Civil Rights.

ACTION: Notice 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 New York Advisory Committee (Committee) will hold a meeting via WebEx on Friday, July 16, 2021 from 1:00–2:15 p.m. ET for the purpose meeting is to debrief the briefings on potential racial discrimination in eviction polices and enforcement in New York.

DATES: The meeting will be held on Friday, July 16, 2021 from 1:00 p.m.–2:15 p.m. ET.

- To join by web conference please click the link below; password is USCCR: *https://civilrights.webex.com/civilrights/j.php?MTID=m71c12750a2fb6067793695c7b73b7044.*
- To join by phone only, dial: 1–800–360–9505; Access code: 199 963 9326.

FOR FURTHER INFORMATION CONTACT: Mallory Trachtenberg, DFO, at *mtrachtenberg@usccr.gov* or 202–809–9618.

SUPPLEMENTARY INFORMATION: Members of the public can listen to the discussion. This meeting is available to the public through the following toll-free call-in number. An open comment period will be provided to allow members of the public to make a statement as time allows. The conference operator will ask callers to identify themselves, the organizations they are affiliated with (if any), and an email address prior to placing callers into the conference call. Callers can expect to incur charges for calls they initiate over wireless lines, and the Commission will not refund any incurred charges. Callers will incur no charge for calls they initiate over land-line connections to the toll-free telephone number. Persons with hearing impairments may also follow the proceedings by first calling the Federal Relay Service at 1–800–977–8339 and providing the Service with the

conference call number and conference ID number. To request additional accommodations, please email *mtrachtenberg@usccr.gov* at least 7 days prior to the meeting for which accommodations are requested.

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 Mallory Trachtenberg at *mtrachtenberg@usccr.gov* in the Regional Programs Unit Office/Advisory Committee Management Unit. Persons who desire additional information may contact the Regional Programs Unit at 202–809–9618.

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/apex/FACAPublicCommittee?id=a10t0000001gzmAAAQ* under the Commission on Civil Rights, New York 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

I. Welcome, Roll Call and Announcements
II. Approval of Minutes from the 5/21/21 Meeting
III. Discussion: Debrief Briefings
IV. Public Comment
V. Review Next Steps
VI. Adjournment

Dated: May 28, 2021.

David Mussatt,

Supervisory Chief, Regional Programs Unit.

[FR Doc. 2021–11713 Filed 6–3–21; 8:45 am]

BILLING CODE 6335–01–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[B–05–2021]

Foreign-Trade Zone (FTZ) 265—Conroe, Texas; Authorization of Production Activity; Bauer Manufacturing LLC, d/b/a NEORig (Water Well Drilling Rigs), Conroe, Texas

On February 1, 2021, the City of Conroe, grantee of FTZ 265, submitted a notification of proposed production activity to the FTZ Board on behalf of Bauer Manufacturing LLC, d/b/a NEORig, within FTZ 265, in Conroe, Texas.

The notification was processed in accordance with the regulations of the FTZ Board (15 CFR part 400), including notice in the **Federal Register** inviting public comment (86 FR 8583, February 8, 2021). On June 1, 2021, the applicant was notified of the FTZ Board's decision that no further review of the activity is warranted at this time. The production activity described in the notification was authorized, subject to the FTZ Act and the FTZ Board's regulations, including Section 400.14.

Dated: June 1, 2021.

Andrew McGilvray,

Executive Secretary.

[FR Doc. 2021–11746 Filed 6–3–21; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–560–837, A–475–843, A–557–819, A–791–826, A–469–821, A–723–001, A–823–817]

Prestressed Concrete Steel Wire Strand From Indonesia, Italy, Malaysia, South Africa, Spain, Tunisia, and Ukraine: Antidumping Duty Orders

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

SUMMARY: Based on affirmative final determinations by the Department of Commerce (Commerce) and the International Trade Commission (ITC), Commerce is issuing antidumping duty orders on prestressed concrete steel wire strand (PC strand) from Indonesia, Italy, Malaysia, South Africa, Spain, Tunisia, and Ukraine.

DATES: Applicable June 4, 2021.

FOR FURTHER INFORMATION CONTACT: Drew Jackson at (202) 482–4406 (Indonesia); Stephanie Berger at (202) 482–2483 (Italy); Justin Neuman at (202) 482–0486 (Malaysia); Jerry Huang at (202) 482–4047 (South Africa); Terre Keaton Stefanova at (202) 482–1280 (Spain); Eva Kim at (202) 482–8283 (Tunisia); Laura Griffith at (202) 482–6430 (Ukraine); 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 April 9, 2021, Commerce published its affirmative final determinations in the less-than-fair-value (LTFV) investigations of PC strand from Indonesia, Italy, Malaysia, South Africa, Spain, Tunisia, and Ukraine.[1] On May 24, 2021, the ITC notified Commerce of its final determinations, pursuant to section 735(d) of the Tariff Act of 1930, as amended (the Act), that an industry in the United States is materially injured within the meaning of section 735(b)(1)(A)(i) of the Act by reason of LTFV imports of PC strand from Indonesia, Italy, Malaysia, South Africa, Spain, Tunisia, and Ukraine, and its negative critical circumstances finding with respect to dumped imports of PC strand from Indonesia.[2]

Scope of the Orders

The products covered by these orders are PC strand from Indonesia, Italy, Malaysia, South Africa, Spain, Tunisia, and Ukraine. For a complete description of the scope of these orders, *see* the appendix to this notice.

Antidumping Duty Orders

On May 24, 2021, in accordance with section 735(d) of the Act, the ITC notified Commerce of its final determinations in these investigations, in which it found that an industry in the United States is materially injured within the meaning of section 735(b)(1)(A)(i) of the Act by reason of imports of PC strand from Indonesia, Italy, Malaysia, South Africa, Spain, Tunisia, and Ukraine.[3] Therefore, in accordance with section 735(c)(2) of the Act, Commerce is issuing these antidumping duty orders. Because the ITC determined that imports of PC strand from Indonesia, Italy, Malaysia,

[1] *See Prestressed Concrete Steel Wire Strand from Indonesia: Final Affirmative Determination of Sales at Less Than Fair Value, and Final Affirmative Determination of Critical Circumstances, In Part,* 86 FR 18495 (April 9, 2021); *Prestressed Concrete Steel Wire Strand from Italy: Final Affirmative Determination of Sales at Less Than Fair Value, and Final Negative Determination of Critical Circumstances,* 86 FR 18505 (April 9, 2021); *Prestressed Concrete Steel Wire Strand from Malaysia: Final Affirmative Determination of Sales at Less Than Fair Value,* 86 FR 18502 (April 9, 2021); *Prestressed Concrete Steel Wire Strand from South Africa: Final Affirmative Determination of Sales at Less Than Fair Value,* 86 FR 18497 (April 9, 2021); *Prestressed Concrete Steel Wire Strand from Spain: Final Affirmative Determination of Sales at Less Than Fair Value and Final Negative Determination of Critical Circumstances,* 86 FR 18512 (April 9, 2021); *Prestressed Concrete Steel Wire Strand from Tunisia: Final Affirmative Determination of Sales at Less Than Fair Value,* 86 FR 18508 (April 9, 2021); *Prestressed Concrete Steel Wire Strand from Ukraine: Final Affirmative Determination of Sales at Less Than Fair Value, and Final Negative Determination of Critical Circumstances,* 86 FR 18498 (April 9, 2021) (collectively, *Final Determinations*).

[2] *See* ITC Letter, Notification of ITC Final Determinations in Investigation Nos. 731–TA–1505–1507, 1510–1511, 1513, and 1515 (Final), dated May 24, 2021.

[3] *Id.*

South Africa, Spain, Tunisia, and Ukraine are materially injuring a U.S. industry, unliquidated entries of such merchandise from Indonesia, Italy, Malaysia, South Africa, Spain, Tunisia, and Ukraine, entered or withdrawn from warehouse for consumption, are subject to the assessment of antidumping duties.

Therefore, in accordance with section 736(a)(1) of the Act, Commerce will direct U.S. Customs and Border Protection (CBP) to assess, upon further instruction by Commerce, antidumping duties equal to the amount by which the normal value of the merchandise exceeds the export price (or constructed export price) of the merchandise, for all relevant entries of PC strand from Indonesia, Italy, Malaysia, South Africa, Spain, Tunisia, and Ukraine. With the exception of entries occurring after the expiration of the provisional measures period and before publication of the ITC's final affirmative injury determinations, as further described below, antidumping duties will be assessed on unliquidated entries of PC strand from Indonesia, Italy, Malaysia, South Africa, Spain, Tunisia, and Ukraine entered, or withdrawn from warehouse, for consumption, on or after November 19, 2020, the date of publication of the *Preliminary Determinations*.[4]

Continuation of Suspension of Liquidation

In accordance with section 736 of the Act, Commerce intends to instruct CBP to continue to suspend liquidation on all relevant entries of PC strand from Indonesia, Italy, Malaysia, South Africa, Spain, Tunisia, and Ukraine. These instructions suspending liquidation will remain in effect until further notice.

Commerce also intends to instruct CBP to require cash deposits equal to the estimated weighted-average dumping margins indicated in the tables below. Accordingly, effective on the date of publication in the **Federal Register** of the notice of the ITC's final affirmative injury determinations, CBP will require, at the same time as importers would normally deposit estimated duties on subject merchandise, a cash deposit equal to the rates listed below. The relevant all-others rate applies to all producers or exporters not specifically listed.

Critical Circumstances

With regard to the ITC's negative critical circumstances determination on imports of PC strand from Indonesia, we intend to instruct CBP to lift suspension and to refund any cash deposits made to secure the payment of estimated antidumping duties with respect to entries of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after August 21, 2020 (*i.e.,* 90 days prior to the date of the publication of the *Preliminary Determinations*), but before November 19, 2020 (*i.e.,* the date of publication of the *Preliminary Determinations*).

Provisional Measures

Section 733(d) of the Act states that suspension of liquidation pursuant to an affirmative preliminary determination may not remain in effect for more than four months, except where exporters representing a significant proportion of exports of the subject merchandise request that Commerce extend the four-month period to no more than six months. At the request of exporters that account for a significant proportion of PC strand from Indonesia, Italy, Malaysia, South Africa, Spain, Tunisia, and Ukraine, Commerce extended the four-month period to six months in each of these investigations. Commerce published the preliminary determinations in these investigations on November 19, 2020.[5]

The extended provisional measures period, beginning on the date of publication of the *Preliminary Determinations,* ends on May 17, 2021. Therefore, in accordance with section 733(d) of the Act and our practice,[6] Commerce intends to instruct CBP to terminate the suspension of liquidation and to liquidate, without regard to antidumping duties, unliquidated entries of PC strand from Indonesia, Italy, Malaysia, South Africa, Spain, Tunisia, and Ukraine entered, or withdrawn from warehouse, for consumption after May 17, 2021, the final day on which the provisional measures were in effect, until and through the day preceding the date of publication of the ITC's final affirmative injury determinations in the **Federal Register**. Suspension of liquidation and the collection of cash deposits will resume on the date of publication of the ITC's final determinations in the **Federal Register**.

Estimated Weighted-Average Dumping Margins

The estimated weighted-average dumping margins are as follows:

Exporter/producer	Estimated weighted-average dumping margin (percent)
Indonesia	
P.T. Kingdom Indah	5.76
PT. Bumi Steel Indonesia aka PT. Bumi Nindyyacipta	72.28

[4] *See Prestressed Concrete Steel Wire Strand from Indonesia: Preliminary Affirmative Determination of Sales at Less Than Fair Value, Preliminary Affirmative Determination of Critical Circumstances, in Part, Postponement of Final Determination, and Extension of Provisional Measures,* 85 FR 73676 (November 19, 2020); *Prestressed Concrete Steel Wire Strand from Italy: Preliminary Affirmative Determination of Sales at Less Than Fair Value, Preliminary Negative Determination of Critical Circumstances, Postponement of Final Determination, and Extension of Provisional Measures,* 85 FR 73679 (November 19, 2020); *Prestressed Concrete Steel Wire Strand from Malaysia: Preliminary Affirmative Determination of Sales at Less Than Fair Value, Postponement of Final Determination, and Extension of Provisional Measures,* 85 FR 73685 (November 19, 2020); *Prestressed Concrete Steel Wire Strand from South Africa: Preliminary Affirmative Determination of Sales at Less Than Fair Value, Postponement of Final Determination, and Extension of Provisional Measures,* 85 FR 73674 (November 19, 2020); *Prestressed Concrete Steel Wire Strand from Spain: Preliminary Affirmative Determination of Sales at Less Than Fair Value, Preliminary Negative Determination of Critical Circumstances, Postponement of Final Determination, and Extension of Provisional Measures,* 85 FR 73683 (November 19, 2020); *Prestressed Concrete Steel Wire Strand from Tunisia: Preliminary Affirmative Determination of Sales at Less Than Fair Value, Postponement of Final Determination, and Extension of Provisional Measures,* 85 FR 73681 (November 19, 2020); and *Prestressed Concrete Steel Wire Strand from Ukraine: Preliminary Affirmative Determination of Sales at Less Than Fair Value and Preliminary Negative Determination of Critical Circumstances, Postponement of Final Determination, and Extension of Provisional Measures,* 85 FR 73688 (November 19, 2020) (collectively, *Preliminary Determinations*).

[5] *See Preliminary Determinations.*

[6] *See, e.g., Certain Corrosion-Resistant Steel Products from India, India, the People's Republic of China, the Republic of Korea and Taiwan: Amended Final Affirmative Antidumping Determination for India and Taiwan, and Antidumping Duty Orders,* 81 FR 48390, 48392 (July 25, 2016).

Exporter/producer	Estimated weighted-average dumping margin (percent)
All Others	5.76
Italy	
WBO Italcables Societa Cooperativa	3.59
CB Trafilati Acciai S.p.A	19.26
All Others	3.59
Malaysia	
Kiswire Sdn. Bhd	3.94
Southern PC Steel Sdn. Bhd	26.95
Wei Dat Steel Wire Sdn. Bhd	6.42
All Others	5.13
South Africa	
Scaw Metals Group	155.10
All Others	155.10
Spain	
Global Special Steel Products S.A.U. (d.b.a. Trenzas y Cables de Acero PSC, S.L. (TYCSA))	14.75
All Others	14.75
Tunisia	
Maklada Industries and Maklada SA	30.58
All Others	30.58
Ukraine	
PJSC PA Stalkanat-Silur	19.30
All Others	19.30

Notification to Interested Parties

This notice constitutes the antidumping duty orders with respect to PC strand from Indonesia, Italy, Malaysia, South Africa, Spain, Tunisia, and Ukraine pursuant to section 736(a) of the Act. Interested parties can find a list of antidumping duty orders currently in effect at *http://enforcement.trade.gov/stats/iastats1.html.*

These antidumping duty orders are published in accordance with section 736(a) of the Act and 19 CFR 351.211(b).

Dated: May 28, 2021.

Christian Marsh,

Acting Assistant Secretary for Enforcement and Compliance.

Appendix—Scope of the Orders

The products covered by these orders are prestressed concrete steel wire strand (PC strand), produced from wire of non-stainless, non-galvanized steel, which is suitable for use in prestressed concrete (both pretensioned and post-tensioned) applications. The product definition encompasses covered and uncovered strand and all types, grades, and diameters of PC strand. PC strand is normally sold in the United States in sizes ranging from 0.25 inches to 0.70 inches in diameter. PC strand made from galvanized wire is only excluded from the scope if the zinc and/or zinc oxide coating meets or exceeds the 0.40 oz./ft^2 standard set forth in ASTM–A–475.

The PC strand subject to these orders are currently classifiable under subheadings 7312.10.3010 and 7312.10.3012 of the Harmonized Tariff Schedule of the United States (HTSUS). Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of these orders is dispositive.

[FR Doc. 2021–11760 Filed 6–3–21; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[A–351–842]

Certain Uncoated Paper From Brazil: Preliminary Results of the Antidumping Duty Administrative Review and Preliminary Successor-in-Interest Determination; 2019–2020

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

SUMMARY: The Department of Commerce (Commerce) preliminarily finds that sales of certain uncoated paper (uncoated paper) from Brazil were made at less than normal value during the period of review (POR) March 1, 2019, through February 29, 2020. We invite interested parties to comment on these preliminary results.

DATES: Applicable June 4, 2021.

FOR FURTHER INFORMATION CONTACT: Christopher Maciuba, AD/CVD Operations, Office V, Enforcement and Compliance, International Trade Administration, Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–0413.

SUPPLEMENTARY INFORMATION:

Background

On May 6, 2020, Commerce initiated an administrative review of the antidumping duty order on uncoated paper from Brazil, in accordance with section 751(a) of the Tariff Act of 1930, as amended (the Act).[1] This review covers one producer/exporter of subject

[1] *See Initiation of Antidumping and Countervailing Duty Administrative Reviews,* 85 FR 26931 (May 6, 2020) (*Initiation Notice*).

merchandise: Suzano S.A. (Suzano).[2] For details regarding of the events that occurred subsequent to the initiation of this review, *see* the Preliminary Decision Memorandum.[3]

On July 21, 2020, Commerce exercised its discretion to toll administrative review deadlines by 60 days.[4] In addition, pursuant to section 751(a)(3)(A) of the Act, Commerce determined it was not practicable to complete the preliminary results of this review within the 245 days and extended the deadline for these preliminary results until May 28, 2021.[5]

Scope of the Order[6]

The products covered by the *Order* are certain uncoated paper products from Brazil. For a full description of the scope, *see* the Preliminary Decision Memorandum.[7]

Preliminary Results of Successor-in-Interest Analysis

Suzano reported that, during the POR, it changed its name from Suzano Papel e Celulose S.A. to Suzano S.A. Based on our analysis of the information on the record regarding any changes with respect to corporate structure, manufacturing facilities, customers, and suppliers, we preliminarily determine that Suzano S.A. is the successor-in-interest to Suzano Papel e Celulose S.A., and, as a result, should be accorded the same treatment previously accorded to Suzano Papel e Celulose S.A. *See* the Preliminary Decision Memorandum.

Methodology

Commerce is conducting this review in accordance with sections 751(a) of the Act. We calculated export price and constructed export price in accordance with section 772 of the Act. We calculated NV in accordance with section 773 of the Act. For a full description of the methodology underlying these preliminary results, *see* the Preliminary Decision Memorandum. A list of topics included in the Preliminary Decision Memorandum is included as an appendix to this notice. The Preliminary Decision Memorandum is a public document and is made available to the public 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 is available at *http://enforcement.trade.gov/frn.*

Preliminary Results of the Review

We preliminarily determine the following weighted-average dumping margin exists for the period March 1, 2019, through February 29, 2020:

Exporter/producer	Weighted-average dumping margin (percent)
Suzano S.A	19.40

Assessment Rates

Upon completion of the final results of this administrative review, Commerce shall determine, and U.S. Customs and Border Protection (CBP) shall assess, antidumping duties on all appropriate entries. If Suzano's weighted-average dumping margin is not zero or *de minimis* (*i.e.,* less than 0.5 percent) in the final results of this review, we will calculate importer-specific *ad valorem* antidumping duty assessment rates based on the ratio of the total amount of dumping calculated for the importer's examined sales to the total entered value of those same sales in accordance with 19 CFR 351.212(b)(1). We will instruct CBP to assess antidumping duties on all appropriate entries covered by this review when the importer-specific assessment rate calculated in the final results of this review is not zero or *de minimis.* If Suzano's weighted-average dumping margin is zero or *de minimis,* we will instruct CBP to liquidate the appropriate entries without regard to antidumping duties. The final results of this review shall be the basis for the assessment of antidumping duties on entries of merchandise covered by the final results of this review and for future deposits of estimated duties, where applicable.[8]

In accordance with Commerce's ''automatic assessment'' practice, for entries of subject merchandise during the POR produced by Suzano for which the company did not know that the merchandise was destined for the United States, we will instruct CBP to liquidate those entries at the all-others rate established in the original less-than-fair value (LTFV) investigation (*i.e.,* 27.11 percent)[9] if there is no rate for the intermediate company(ies) involved in the transaction.[10]

Consistent with its recent notice,[11] 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).

Cash Deposit Requirements

The following cash deposit requirements will be effective for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date of the finals results of this administrative review, as provided by section 751(a)(2)(C) of the Act: (1) The cash deposit rate for Suzano in the final results of review will be equal to the weighted-average dumping margin established in the final results of this administrative review, except if the rate is less than 0.50 percent and, therefore, *de minimis* within the meaning of 19 CFR 351.106(c)(1), in which case the cash deposit rate will be zero; (2) for merchandise exported by producers or exporters not covered in this review, but covered in a prior segment of the proceeding, then the cash deposit rate will be the company-specific rate published for the most recently-completed segment in which they were reviewed; (3) if the exporter is not a firm covered in this review or the original

[2] On August 17, 2020, we rescinded this review with respect to: International Paper do Brasil Ltda. and International Paper Exportadora Ltda. *See Certain Uncoated Paper from Brazil: Partial Rescission of Antidumping Duty Administrative Review; 2019–2020,* 85 FR 50008 (August 17, 2020).

[3] *See* Memorandum, ''Decision Memorandum for the Preliminary Results of the Antidumping Duty Administrative Review of Certain Uncoated Paper from Brazil; 2018–2019,'' dated concurrently with, and hereby adopted by, this notice (Preliminary Decision Memorandum).

[4] *See* Memorandum, ''Tolling of Deadlines for Antidumping and Countervailing Duty Administrative Reviews,'' dated July 21, 2020.

[5] *See* Memorandum, ''Certain Uncoated Paper from Brazil: Extension of Deadline for Preliminary Results of 2019–2020 Antidumping Duty Administrative Review,'' dated January 8, 2021.

[6] *See Certain Uncoated Paper from Australia, Brazil, Indonesia, the People's Republic of China, and Portugal: Amended Final Affirmative Antidumping Determinations for Brazil and Indonesia and Antidumping Duty Orders,* 81 FR 11174 (March 3, 2016) (*Order*).

[7] On January 27, 2021, Commerce preliminarily found that rolls of certain uncoated paper from Brazil were being further processed in the United States into individual sheets of uncoated paper that would be subject to the *Order.* Commerce intends to make a final finding as to whether these uncoated paper rolls are within the scope of this proceeding prior to the issuance of the final results of this administrative review. For further details, *see* the Preliminary Decision Memorandum.

[8] *See* section 751(a)(2)(C) of the Act.

[9] *See Order.*

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

[11] *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).

LTFV investigation but the producer is, then the cash deposit rate will be the rate established for the most recently completed segment of this proceeding for the producer of the merchandise; (4) the cash deposit rate for all other producers or exporters will continue to be 27.11 percent,[12] the all-others rate established in the LTFV investigation. These cash deposit requirements, when imposed, shall remain in effect until further notice.

Disclosure and Public Comment

We intend to disclose the calculations performed to parties within five days after public announcement of the preliminary results.[13] Pursuant to 19 CFR 351.309(c), interested parties may submit case briefs no later than 30 days after the date of publication of this notice. Rebuttal briefs, limited to issues raised in the case briefs, may be filed not later than seven days after the date for filing case briefs.[14] Parties who submit case briefs or rebuttal briefs in this proceeding 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.[15] Case and rebuttal briefs should be filed using ACCESS [16] and must be served on interested parties.[17] Executive summaries should be limited to five pages total, including footnotes. Note that Commerce has temporarily modified certain of its requirements for serving documents containing business proprietary information, until further notice.[18]

Interested parties who wish to request a hearing must do so within 30 days of publication of these preliminary results by submitting a written request to the Assistant Secretary for Enforcement and Compliance using Enforcement and Compliance's ACCESS system.[19] 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. Issues raised in the hearing will be limited to those raised in the respective case and rebuttal briefs.[20] 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 the date and time of the hearing two days before the scheduled date. Parties are reminded that all briefs and hearing requests must be filed electronically using ACCESS and received successfully in their entirety by 5:00 p.m. Eastern Time on the due date.

Final Results of Review

Unless otherwise extended, Commerce intends to issue the final results of this administrative review, including the results of its analysis of the issues raised in any written briefs, not later than 120 days after the date of publication of this notice, pursuant to section 751(a)(3)(A) of the Act and 19 CFR 351.213(h)(1).

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 POR. 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.

Notification to Interested Parties

This administrative review and notice are issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Act, and 19 CFR 351.213 and 351.221(b)(4).

Dated: May 28, 2021.

Christian Marsh,

Acting Assistant Secretary for Enforcement and Compliance.

Appendix—List of Topics Discussed in the Preliminary Decision Memorandum

I. Summary
II. Background
III. Scope of the *Order*
IV. Preliminary Successor-in-Interest Determination
V. Duty Absorption
VI. Discussion of the Methodology
VII. Product Comparisons
VIII. Date of Sale
IX. Treatment of Re-Export Sales
X. Export Price/Constructed Export Price
XI. Normal Value
XII. Currency Conversion
XIII. Recommendation

[FR Doc. 2021–11787 Filed 6–3–21; 8:45 am]

BILLING CODE 3510–DS–P

[12] *See Order,* 81 FR at 11176.

[13] *See* 19 CFR 351.224(b).

[14] *See* 19 CFR 351.309(c)(1)(ii) and 351.309(d)(1); *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*).

[15] *See* 19 CFR 351.309(c)(2) and (d)(2).

[16] *See generally* 19 CFR 351.303.

[17] *See* 19 CFR 351.303(f).

[18] *See Temporary Rule.*

[19] *See* 19 CFR 351.310(c).

[20] *See* 19 CFR 351.310.

DEPARTMENT OF COMMERCE

International Trade Administration

[A–471–807]

Certain Uncoated Paper From Portugal: Preliminary Results of the Administrative Review of the Antidumping Duty Order; 2019–2020

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

SUMMARY: The Department of Commerce (Commerce) preliminarily finds that sales of certain uncoated paper (uncoated paper) from Portugal were made at less than normal value during the period of review (POR) March 1, 2019, through February 29, 2020. We invite interested parties to comment on these preliminary results.

DATES: Applicable June 4, 2021.

FOR FURTHER INFORMATION CONTACT: Eric Hawkins, AD/CVD Operations, Office V, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–1988.

SUPPLEMENTARY INFORMATION:

Background

On May 6, 2020, Commerce initiated an administrative review of the antidumping duty order on uncoated paper from Portugal, in accordance with section 751(a) of the Tariff Act of 1930, as amended (the Act).[1] This review covers one producer/exporter of subject merchandise, The Navigator Company, S.A. (Navigator).[2] For details regarding the events that occurred subsequent to the initiation of the review, *see* the Preliminary Decision Memorandum.[3]

On July 21, 2020, Commerce exercised its discretion to toll administrative review deadlines by 60 days.[4] In addition, pursuant to section 751(a)(3)(A) of the Act, Commerce determined that it was not practicable to complete the preliminary results of this

[1] *See Initiation of Antidumping and Countervailing Duty Administrative Reviews,* 85 FR 26931 (May 6, 2020) (*Initiation Notice*).

[2] *Id.,* 85 FR at 26933. In the *Initiation Notice,* Commerce inadvertently referred to Navigator as ''Navigator Company, S.A'' instead of its correct name of ''The Navigator Company, S.A.''

[3] *See* Memorandum, ''Decision Memorandum for the Preliminary Results of the Administrative Review of the Antidumping Duty Order on Certain Uncoated Paper from Portugal; 2019–2020,'' dated concurrently with, and hereby adopted by, this notice (Preliminary Decision Memorandum).

[4] *See* Memorandum, ''Tolling of Deadlines for Antidumping and Countervailing Duty Administrative Reviews,'' dated July 21, 2020. All deadlines in this proceeding have been extended by 60 days.

review within the 245 days and extended these preliminary results by 118 days, until May 28, 2021.[5]

Scope of the Order[6]

The products covered by the *Order* are certain uncoated paper products from Portugal. For a full description of the scope, *see* the Preliminary Decision Memorandum.

Methodology

Commerce is conducting this review in accordance with section 751(a) of the Act. We calculated constructed export price in accordance with section 772 of the Act. We calculated NV in accordance with section 773 of the Act. For a full description of the methodology underlying these preliminary results, *see* the Preliminary Decision Memorandum. A list of topics included in the Preliminary Decision Memorandum is included as an appendix to this notice. The Preliminary Decision Memorandum is a public document and is made available to the public via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at *https://access.trade.gov.* In addition, a complete version of the Preliminary Decision Memorandum is available at *http://enforcement.trade.gov/frn/.*

Preliminary Results of the Review

We preliminarily determine that the following weighted-average dumping margin exists for the period March 1, 2019, through February 29, 2020:

Exporter/producer	Weighted-average dumping margin (percent)
The Navigator Company, S.A	2.22

Assessment Rates

Upon completion of the final results of this administrative review, Commerce shall determine, and U.S. Customs and Border Protection (CBP) shall assess, antidumping duties on all appropriate entries. If Navigator's weighted-average dumping margin is not zero or *de minimis* (*i.e.,* less than 0.5 percent) in the final results of this review, we will calculate importer-specific *ad valorem* antidumping duty assessment rates based on the ratio of the total amount of dumping calculated for the importer's examined sales to the total entered value of those same sales in accordance with 19 CFR 351.212(b)(1). We will instruct CBP to assess antidumping duties on all appropriate entries covered by this review when the importer-specific assessment rate calculated in the final results of this review is not zero or *de minimis.* If Navigator's weighted-average dumping margin is zero or *de minimis,* we will instruct CBP to liquidate the appropriate entries without regard to antidumping duties. The final results of this review shall be the basis for the assessment of antidumping duties on entries of merchandise covered by the final results of this review and for future deposits of estimated duties, where applicable.[7]

In accordance with Commerce's ''automatic assessment'' practice, for entries of subject merchandise during the POR produced by Navigator for which it did not know that the merchandise was destined for the United States, we will instruct CBP to liquidate those entries at the all-others rate established in the original less-than-fair value (LTFV) investigation (*i.e.,* 7.80 percent)[8] if there is no rate for the intermediate company(ies) involved in the transaction.[9]

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 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 for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date of the finals results of this administrative review, as provided by section 751(a)(2)(C) of the Act: (1) The cash deposit rate for Navigator in the final results of review will be equal to the weighted-average dumping margin established in the final results of this administrative review except if the rate is less than 0.50 percent and, therefore, *de minimis* within the meaning of 19 CFR 351.106(c)(1), in which case the cash deposit rate will be zero; (2) for merchandise exported by producers or exporters not covered in this review but covered in a prior segment of the proceeding, the cash deposit rate will continue to be the company-specific rate published for the most recently-completed segment of this proceeding in which they were reviewed; (3) if the exporter is not a firm covered in this review or the original LTFV investigation but the producer is, then the cash deposit rate will be the rate established for the most recently completed segment of this proceeding for the producer of the merchandise; (4) the cash deposit rate for all other producers or exporters will continue to be 7.80 percent,[11] the all-others rate established in the LTFV investigation. These cash deposit requirements, when imposed, shall remain in effect until further notice.

Disclosure and Public Comment

We intend to disclose the calculations performed to parties within five days after public announcement of the preliminary results.[12] Pursuant to 19 CFR 351.309(c), interested parties may submit case briefs no later than 30 days after the date of publication of this notice. Rebuttal briefs, limited to issues raised in the case briefs, may be filed not later than seven days after the date for filing case briefs.[13] Parties who submit case briefs or rebuttal briefs in this proceeding 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.[14] Case and rebuttal briefs should be filed using ACCESS[15] and must be served on interested parties.[16] Executive summaries should be limited to five pages total, including footnotes. Note that Commerce has temporarily modified certain of its requirements for serving documents

[5] *See* Memorandum, ''Certain Uncoated Paper from Portugal: Extension of Deadline for Preliminary Results of 2019–2020 Antidumping Duty Administrative Review,'' dated January 11, 2021.

[6] *See Certain Uncoated Paper from Australia, Brazil, Indonesia, the People's Republic of China, and Portugal: Amended Final Affirmative Antidumping Determinations for Brazil and Indonesia and Antidumping Duty Orders,* 81 FR 11174 (March 3, 2016) (*Order*).

[7] *See* section 751(a)(2)(C) of the Act.

[8] *See Order.*

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

[10] *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).

[11] *See Order.*

[12] *See* 19 CFR 351.224(b).

[13] *See* 19 CFR 351.309(c)(1)(ii) and 351.309(d)(1); *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)(2) and (d)(2).

[15] *See generally* 19 CFR 351.303.

[16] *See* 19 CFR 351.303(f).

containing business proprietary information, until further notice.[17]

Interested parties who wish to request a hearing must do so within 30 days of publication of these preliminary results by submitting a written request to the Assistant Secretary for Enforcement and Compliance using Enforcement and Compliance's ACCESS system.[18] 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. Issues raised in the hearing will be limited to those raised in the respective case and rebuttal briefs.[19] 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 the date and time of the hearing two days before the scheduled date. Parties are reminded that all briefs and hearing requests must be filed electronically using ACCESS and received successfully in their entirety by 5:00 p.m. Eastern Time on the due date.

Final Results of Review

Unless otherwise extended, Commerce intends to issue the final results of this administrative review, including the results of its analysis of the issues raised in any written briefs, not later than 120 days after the date of publication of this notice, pursuant to section 751(a)(3)(A) of the Act and 19 CFR 351.213(h)(1).

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 POR. 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.

Notification to Interested Parties

This administrative review and notice are issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Act, and 19 CFR 351.213 and 351.221(b)(4).

[17] *See Temporary Rule.*

[18] *See* 19 CFR 351.310(c).

[19] *See* 19 CFR 351.310.

Dated: May 28, 2021.

Christian Marsh,

Acting Assistant Secretary for Enforcement and Compliance.

Appendix—List of Topics Discussed in the Preliminary Decision Memorandum

I. Summary
II. Background
III. Scope of the *Order*
IV. Discussion of the Methodology
V. Product Comparisons
VI. Date of Sale
VII. Constructed Export Price
VIII. Normal Value
IX. Currency Conversion
X. Recommendation

[FR Doc. 2021–11789 Filed 6–3–21; 8:45 am]

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DEPARTMENT OF COMMERCE

National Institute of Standards and Technology

Judges Panel of the Malcolm Baldrige National Quality Award

AGENCY: National Institute of Standards and Technology, Department of Commerce.

ACTION: Notice of closed meeting.

SUMMARY: The Judges Panel of the Malcolm Baldrige National Quality Award (Judges Panel) will meet in closed session on Wednesday, August 25, 2021, from 10:30 a.m. to 4:30 p.m. Eastern time. The purpose of this meeting is to review the results of examiners' scoring of written applications. Panel members will vote on which applicants merit site visits by examiners to verify the accuracy of quality improvements claimed by applicants. The meeting is closed to the public in order to protect the proprietary data to be examined and discussed.

DATES: The meeting will be held on Wednesday, August 25, 2021, from 10:30 a.m. to 4:30 p.m. Eastern time. The entire meeting will be closed to the public.

ADDRESSES: The meeting will be held virtually via web conference.

FOR FURTHER INFORMATION CONTACT: Robert Fangmeyer, Director, Baldrige Performance Excellence Program, National Institute of Standards and Technology, 100 Bureau Drive, Mail Stop 1020, Gaithersburg, Maryland 20899–1020, telephone number (301) 975–2361, email *robert.fangmeyer@nist.gov.*

SUPPLEMENTARY INFORMATION:

Authority: 15 U.S.C. 3711a(d)(1) and the Federal Advisory Committee Act, as amended, 5 U.S.C. App.

Pursuant to the Federal Advisory Committee Act, as amended, 5 U.S.C. App., notice is hereby given that the Judges Panel of the Malcolm Baldrige National Quality Award will meet on Wednesday, August 25, 2021, from 10:30 a.m. to 4:30 p.m. Eastern time. The Judges Panel is composed of twelve members, appointed by the Secretary of Commerce, with a balanced representation from U.S. service, manufacturing, nonprofit, education, and health care industries. Members are selected for their familiarity with quality improvement operations and competitiveness issues of manufacturing companies, service companies, small businesses, nonprofits, health care providers, and educational institutions. The purpose of this meeting is to review the results of examiners' scoring of written applications. Panel members will vote on which applicants merit site visits by examiners to verify the accuracy of quality improvements claimed by applicants. The meeting is closed to the public in order to protect the proprietary data to be examined and discussed.

The Chief Financial Officer/Assistant Secretary for Administration and Deputy Assistant Secretary for Administration, with the concurrence of the Assistant General Counsel for Employment, Litigation and Information, formally determined, pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended by Section 5(c) of the Government in the Sunshine Act, Public Law 94–409, that the meeting of the Judges Panel may be closed to the public in accordance with 5 U.S.C. 552b(c)(4) because the meeting is likely to disclose trade secrets and commercial or financial information obtained from a person which is privileged or confidential, and 5 U.S.C. 552b(c)(9)(B) because the meeting is likely to disclose information the premature disclosure of which would, in the case of any agency, be likely to significantly frustrate implementation of a proposed agency action. The meeting, which involves examination of current Malcolm Baldrige National Quality Award (Award) applicant data from U.S. organizations and a discussion of these data as compared to the Award criteria in order to recommend Award recipients, will be closed to the public.

Alicia Chambers,

NIST Executive Secretariat.

[FR Doc. 2021–11743 Filed 6–3–21; 8:45 am]

BILLING CODE 3510–13–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XB092]

Schedules for Atlantic Shark Identification Workshops and Protected Species Safe Handling, Release, and Identification Workshops

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

ACTION: Notice of public workshops.

SUMMARY: Free Atlantic Shark Identification Workshops and Safe Handling, Release, and Identification Workshops will be held in July, August, and September of 2021. Certain fishermen and shark dealers are required to attend a workshop to meet regulatory requirements and to maintain valid permits. Specifically, the Atlantic Shark Identification Workshop is mandatory for all federally permitted Atlantic shark dealers. The Safe Handling, Release, and Identification Workshop is mandatory for vessel owners and operators who use bottom longline, pelagic longline, or gillnet gear, and who have also been issued shark or swordfish limited access permits. Additional free workshops will be conducted during 2021 and will be announced in a future notice.

DATES: The Atlantic Shark Identification Workshops will be held on July 8, August 19, and September 9, 2021. The Safe Handling, Release, and Identification Workshops will be held on July 20, July 28, August 3, August 31, September 3, and September 10, 2021. See **SUPPLEMENTARY INFORMATION** for further details.

ADDRESSES: The Atlantic Shark Identification Workshops will be held in Bohemia, NY; Norfolk, VA; and Panama City Beach, FL. The Safe Handling, Release, and Identification Workshops will be held in Galveston, TX; Manahawkin, NJ; Vero Beach, FL; Charleston, SC; Ronkonkoma, NY; and Gulfport, MS. See **SUPPLEMENTARY INFORMATION** for further details on workshop locations.

FOR FURTHER INFORMATION CONTACT: Rick Pearson by phone: (727) 824–5399, or by email at *rick.a.pearson@noaa.gov.*

SUPPLEMENTARY INFORMATION: Atlantic highly migratory species (HMS) fisheries are managed under the authority of the Atlantic Tunas Convention Act (16 U.S.C. 971 *et seq.*) and the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 *et seq.*). The 2006 Consolidated Atlantic HMS Fishery Management Plan and its amendments are implemented by regulations at 50 CFR part 635. Section 635.8 describes the requirements for the Atlantic Shark Identification Workshops and Safe Handling, Release, and Identification Workshops. The workshop schedules, registration information, and a list of frequently asked questions regarding the Atlantic Shark Identification and Safe Handling, Release, and Identification workshops are posted online at: *https://www.fisheries.noaa.gov/atlantic-highly-migratory-species/atlantic-shark-identification-workshops* and *https://www.fisheries.noaa.gov/atlantic-highly-migratory-species/safe-handling-release-and-identification-workshops.*

Atlantic Shark Identification Workshops

Since January 1, 2008, Atlantic shark dealers have been prohibited from receiving, purchasing, trading, or bartering for Atlantic sharks unless a valid Atlantic Shark Identification Workshop certificate is on the premises of each business listed under the shark dealer permit that first receives Atlantic sharks (71 FR 58057; October 2, 2006). Dealers who attend and successfully complete a workshop are issued a certificate for each place of business that is permitted to receive sharks. These certificate(s) are valid for 3 years. Thus, certificates that were initially issued in 2018 will be expiring in 2021. Approximately 183 free Atlantic Shark Identification Workshops have been conducted since October 2008.

Currently, permitted dealers may send a proxy to an Atlantic Shark Identification Workshop. However, if a dealer opts to send a proxy, the dealer must designate a proxy for each place of business covered by the dealer's permit that first receives Atlantic sharks. Only one certificate will be issued to each proxy. A proxy must be a person who is currently employed by a place of business covered by the dealer's permit; is a primary participant in the identification, weighing, and/or first receipt of fish as they are offloaded from a vessel; and who fills out dealer reports. Atlantic shark dealers are prohibited from renewing a Federal shark dealer permit unless a valid Atlantic Shark Identification Workshop certificate for each business location that first receives Atlantic sharks has been submitted with the permit renewal application. Additionally, a copy of a valid dealer or proxy Atlantic Shark Identification Workshop certificate must be in any trucks or other conveyances that are extensions of a dealer's place of business.

Workshop Dates, Times, and Locations

1. July 8, 2021, 12 p.m.–4 p.m., LaQuinta Inn, 10 Aero Road, Bohemia, NY 11716.
2. August 19, 2021, 12 p.m.–4 p.m., Doubletree Hotel, 1500 North Military Highway, Norfolk, VA 23502.
3. September 9, 2021, 12 p.m.–4 p.m., LaQuinta Inn and Suites, 7115 Coastal Palms Boulevard, Panama City Beach, FL 32407.

Registration

To register for a scheduled Atlantic Shark Identification Workshop, please contact Eric Sander at *ericssharkguide@yahoo.com* or at (386) 852–8588. Pre-registration is highly recommended, but not required.

Registration Materials

To ensure that workshop certificates are linked to the correct permits, participants will need to bring the following specific items to the workshop:

- Atlantic shark dealer permit holders must bring proof that the attendee is an owner or agent of the business (such as articles of incorporation), a copy of the applicable permit, and proof of identification.
- Atlantic shark dealer proxies must bring documentation from the permitted dealer acknowledging that the proxy is attending the workshop on behalf of the permitted Atlantic shark dealer for a specific business location, a copy of the appropriate valid permit, and proof of identification.

Workshop Objectives

The Atlantic Shark Identification Workshops are designed to reduce the number of unknown and improperly identified sharks reported in the dealer reporting form and increase the accuracy of species-specific dealer-reported information. Reducing the number of unknown and improperly identified sharks will improve quota monitoring and the data used in stock assessments. These workshops will train shark dealer permit holders or their proxies to properly identify Atlantic shark carcasses.

Safe Handling, Release, and Identification Workshops

Since January 1, 2007, shark limited-access and swordfish limited-access permit holders who fish with longline or gillnet gear have been required to submit a copy of their Safe Handling, Release, and Identification Workshop certificate in order to renew either

permit (71 FR 58057; October 2, 2006). These certificate(s) are valid for 3 years. Certificates issued in 2018 will be expiring in 2021. As such, vessel owners who have not already attended a workshop and received a NMFS certificate, or vessel owners whose certificate(s) will expire prior to the next permit renewal, must attend a workshop to fish with, or renew, their swordfish and shark limited-access permits. Additionally, new shark and swordfish limited-access permit applicants who intend to fish with longline or gillnet gear must attend a Safe Handling, Release, and Identification Workshop and submit a copy of their workshop certificate before either of the permits will be issued. Approximately 376 free Safe Handling, Release, and Identification Workshops have been conducted since 2006.

In addition to vessel owners, at least one operator on board vessels issued a limited-access swordfish or shark permit that uses longline or gillnet gear is required to attend a Safe Handling, Release, and Identification Workshop and receive a certificate. Vessels that have been issued a limited-access swordfish or shark permit and that use longline or gillnet gear may not fish unless both the vessel owner and operator have valid workshop certificates onboard at all times. Vessel operators who have not already attended a workshop and received a NMFS certificate, or vessel operators whose certificate(s) will expire prior to their next fishing trip, must attend a workshop to operate a vessel with swordfish and shark limited-access permits on which longline or gillnet gear is used.

Workshop Dates, Times, and Locations

1. July 20, 2021, 9 a.m.–5 p.m., Hilton Hotel, 5400 Seawall Boulevard, Galveston, TX 77551.
2. July 28, 2021, 9 a.m.–5 p.m., Holiday Inn, 151 Route 72, Manahawkin, NJ 08050.
3. August 3, 2021, 9 a.m.–5 p.m., Holiday Inn, 3384 Ocean Drive, Vero Beach, FL 32963.
4. August 31, 2021, 9 a.m.–5 p.m., Hampton Inn, 678 Citadel Haven Drive, Charleston, SC 29414.
5. September 3, 2021, 9 a.m.–5 p.m., Marriott Courtyard, 5000 Express Drive South, Ronkonkoma, NY 11779.
6. September 10, 2021, 9 a.m.–5 p.m., Holiday Inn, 9515 US 49, Gulfport, MS 39503.

Registration

To register for a scheduled Safe Handling, Release, and Identification Workshop, please contact Angler Conservation Education at (386) 682–0158. Pre-registration is highly recommended, but not required.

Registration Materials

To ensure that workshop certificates are linked to the correct permits, participants will need to bring the following specific items with them to the workshop:

- Individual vessel owners must bring a copy of the appropriate swordfish and/or shark permit(s), a copy of the vessel registration or documentation, and proof of identification;
- Representatives of a business-owned or co-owned vessel must bring proof that the individual is an agent of the business (such as articles of incorporation), a copy of the applicable swordfish and/or shark permit(s), and proof of identification; and
- Vessel operators must bring proof of identification.

Workshop Objectives

The Safe Handling, Release, and Identification Workshops are designed to teach longline and gillnet fishermen the required techniques for the safe handling and release of entangled and/or hooked protected species, such as sea turtles, marine mammals, smalltooth sawfish, Atlantic sturgeon, and prohibited sharks. In an effort to improve reporting, the proper identification of protected species and prohibited sharks will also be taught at these workshops. Additionally, individuals attending these workshops will gain a better understanding of the requirements for participating in these fisheries. The overall goal of these workshops is to provide participants with the skills needed to reduce the mortality of protected species and prohibited sharks, which may prevent additional regulations on these fisheries in the future.

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

Dated: May 28, 2021.

Jennifer M. Wallace,

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

[FR Doc. 2021–11712 Filed 6–3–21; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XB083]

Takes of Marine Mammals Incidental to Specified Activities; Taking Marine Mammals Incidental to a Geophysical Survey of the Queen Charlotte Fault

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

ACTION: Notice; proposed incidental harassment authorization; request for comments on proposed authorization and possible renewal.

SUMMARY: NMFS has received a request from the Lamont-Doherty Earth Observatory of Columbia University (L–DEO) for authorization to take marine mammals incidental to a marine geophysical survey of the Queen Charlotte Fault in the Northeast Pacific Ocean. The proposed survey would be funded by the National Science Foundation (NSF). Pursuant to the Marine Mammal Protection Act (MMPA), NMFS is requesting comments on its proposal to issue an incidental harassment authorization (IHA) to incidentally take marine mammals during the specified activities. NMFS is also requesting comments on a possible one-time, one-year renewal that could be issued under certain circumstances and if all requirements are met, as described in Request for Public Comments at the end of this notice. NMFS will consider public comments prior to making any final decision on the issuance of the requested MMPA authorizations and agency responses will be summarized in the final notice of our decision.

DATES: Comments and information must be received no later than July 6, 2021.

ADDRESSES: Comments should be addressed to Jolie Harrison, Chief, Permits and Conservation Division, Office of Protected Resources, National Marine Fisheries Service. Physical comments should be sent to 1315 East-West Highway, Silver Spring, MD 20910 and electronic comments should be sent to *ITP.Laws@noaa.gov.*

Instructions: NMFS is not responsible for comments sent by any other method, to any other address or individual, or received after the end of the comment period. Comments received electronically, including all attachments, must not exceed a 25-megabyte file size. All comments received are a part of the public record

and will generally be posted online at *www.fisheries.noaa.gov/permit/incidental-take-authorizations-under-marine-mammal-protection-act* without change. All personal identifying information (*e.g.,* name, address) voluntarily submitted by the commenter may be publicly accessible. Do not submit confidential business information or otherwise sensitive or protected information.

FOR FURTHER INFORMATION CONTACT: Ben Laws, Office of Protected Resources, NMFS, (301) 427–8401. Electronic copies of the application and supporting documents, as well as a list of the references cited in this document, may be obtained online at: *www.fisheries.noaa.gov/permit/incidental-take-authorizations-under-marine-mammal-protection-act.* In case of problems accessing these documents, please call the contact listed above.

SUPPLEMENTARY INFORMATION:

Background

The MMPA prohibits the ''take'' of marine mammals, with certain exceptions. Sections 101(a)(5)(A) and (D) of the MMPA (16 U.S.C. 1361 *et seq.*) direct the Secretary of Commerce (as delegated to NMFS) to allow, upon request, the incidental, but not intentional, taking of small numbers of marine mammals by U.S. citizens who engage in a specified activity (other than commercial fishing) within a specified geographical region if certain findings are made and either regulations are issued or, if the taking is limited to harassment, a notice of a proposed incidental take authorization may be provided to the public for review.

Authorization for incidental takings shall be granted if NMFS finds that the taking will have a negligible impact on the species or stock(s) and will not have an unmitigable adverse impact on the availability of the species or stock(s) for taking for subsistence uses (where relevant). Further, NMFS must prescribe the permissible methods of taking and other ''means of effecting the least practicable adverse impact'' on the affected species or stocks and their habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance, and on the availability of the species or stocks for taking for certain subsistence uses (referred to in shorthand as ''mitigation''); and requirements pertaining to the mitigation, monitoring and reporting of the takings are set forth. The definitions of all applicable MMPA statutory terms cited above are included in the relevant sections below.

National Environmental Policy Act

To comply with the National Environmental Policy Act of 1969 (NEPA; 42 U.S.C. 4321 *et seq.*) and NOAA Administrative Order (NAO) 216–6A, NMFS must review our proposed action (*i.e.,* the issuance of an IHA) with respect to potential impacts on the human environment.

Accordingly, NMFS plans to adopt NSF's Environmental Assessment (EA), as we have preliminarily determined that it includes adequate information analyzing the effects on the human environment of issuing the IHA. NSF's EA is available at *www.nsf.gov/geo/oce/envcomp/.*

We will review all comments submitted in response to this notice prior to concluding our NEPA process or making a final decision on the IHA request.

Summary of Request

On December 3, 2019, NMFS received a request from L–DEO for an IHA to take marine mammals incidental to a geophysical survey of the Queen Charlotte Fault (QCF) off of Alaska and British Columbia, Canada. L–DEO submitted a revised version of the application on April 2, 2020. On April 10, 2020, L–DEO informed NMFS that the planned survey would be deferred to 2021 as a result of issues related to the COVID–19 pandemic. L–DEO subsequently submitted revised versions of the application on October 22 and December 16, 2020, the latter of which was deemed adequate and complete. A final, revised version was submitted on January 11, 2021. L–DEO's request is for take of 21 species of marine mammals by Level B harassment. In addition, NMFS proposes to authorize take by Level A harassment for seven of these species.

Description of Proposed Activity

Overview

Researchers from L–DEO, the University of New Mexico, and Western Washington University, with funding from NSF, propose to conduct a high-energy seismic survey from the Research Vessel (R/V) *Marcus G. Langseth* (*Langseth*) at the QCF in the northeast Pacific Ocean during late summer 2021. Other research collaborators include Dalhousie University, the Geological Survey of Canada, and the U.S. Geological Survey. The proposed two-dimensional (2–D) seismic survey would occur within the Exclusive Economic Zones (EEZ) of the United States and Canada, including in Canadian territorial waters. The survey would use a 36-airgun towed array with a total discharge volume of ~6,600 cubic inches (in^3) as an acoustic source, acquiring return signals using both a towed streamer as well as ocean bottom seismometers (OBSs).

The proposed study would use 2–D seismic surveying to characterize crustal and uppermost mantle velocity structure, fault zone architecture and rheology, and seismicity of the QCF. The QCF system is an approximately 1,200 kilometer (km)-long onshore-offshore transform system connecting the Cascadia and Alaska-Aleutian subduction zones; the QCF is the approximately 900 km-long offshore component of the transform system. The purpose of the proposed study is to characterize an approximately 450-km segment of the fault that encompasses systematic variations in key parameters in space and time: (1) Changes in fault obliquity relative to Pacific-North American plate motion leading to increased convergence from north to south; (2) Pacific plate age and theoretical mechanical thickness decrease from north to south; and (3) a shift in Pacific plate motion at approximately 12–6 million years ago that may have increased convergence along the entire length of the fault, possibly initiating underthrusting in the southern portion of the study area. Current understanding of how these variations are expressed through seismicity, crustal-scale deformation, and lithospheric structure and dynamics is limited due to lack of instrumentation and modern seismic imaging.

Dates and Duration

The proposed survey is expected to last for approximately 36 days, including approximately 27 days of seismic operations, 3 days of equipment deployment/retrieval, 2 days of transits, and 4 contingency days (accounting for potential delays due to, *e.g.,* weather). R/V *Langseth* would likely leave out of and return to port in Ketchikan, Alaska, during July–August 2021.

Specific Geographic Region

The proposed survey would occur within the area of approximately 52–57° N and approximately 131–137° W. Representative survey tracklines are shown in Figure 1. Some deviation in actual track lines, including the order of survey operations, could be necessary for reasons such as science drivers, poor data quality, inclement weather, or mechanical issues with the research vessel and/or equipment. The survey is proposed to occur within the EEZs of the United States and Canada, including Alaskan state waters and Canadian territorial waters, ranging in depth from

50–2,800 meters (m). Approximately 4,250 km of transect lines would be surveyed, with 13 percent of the transect lines in Canadian territorial waters. Most of the survey (69 percent) would occur in deep water (>1,000 m), 30 percent would occur in intermediate water (100–1,000 m deep), and approximately 1 percent would take place in shallow water <100 m deep.

Note that the MMPA does not apply in Canadian territorial waters. L–DEO is subject only to Canadian law in conducting that portion of the survey. However, NMFS has calculated the expected level of incidental take in the entire activity area (including Canadian territorial waters) as part of the analysis supporting our determination under the MMPA that the activity will have a negligible impact on the affected species (see Estimated Take and Negligible Impact Analysis and Determination).

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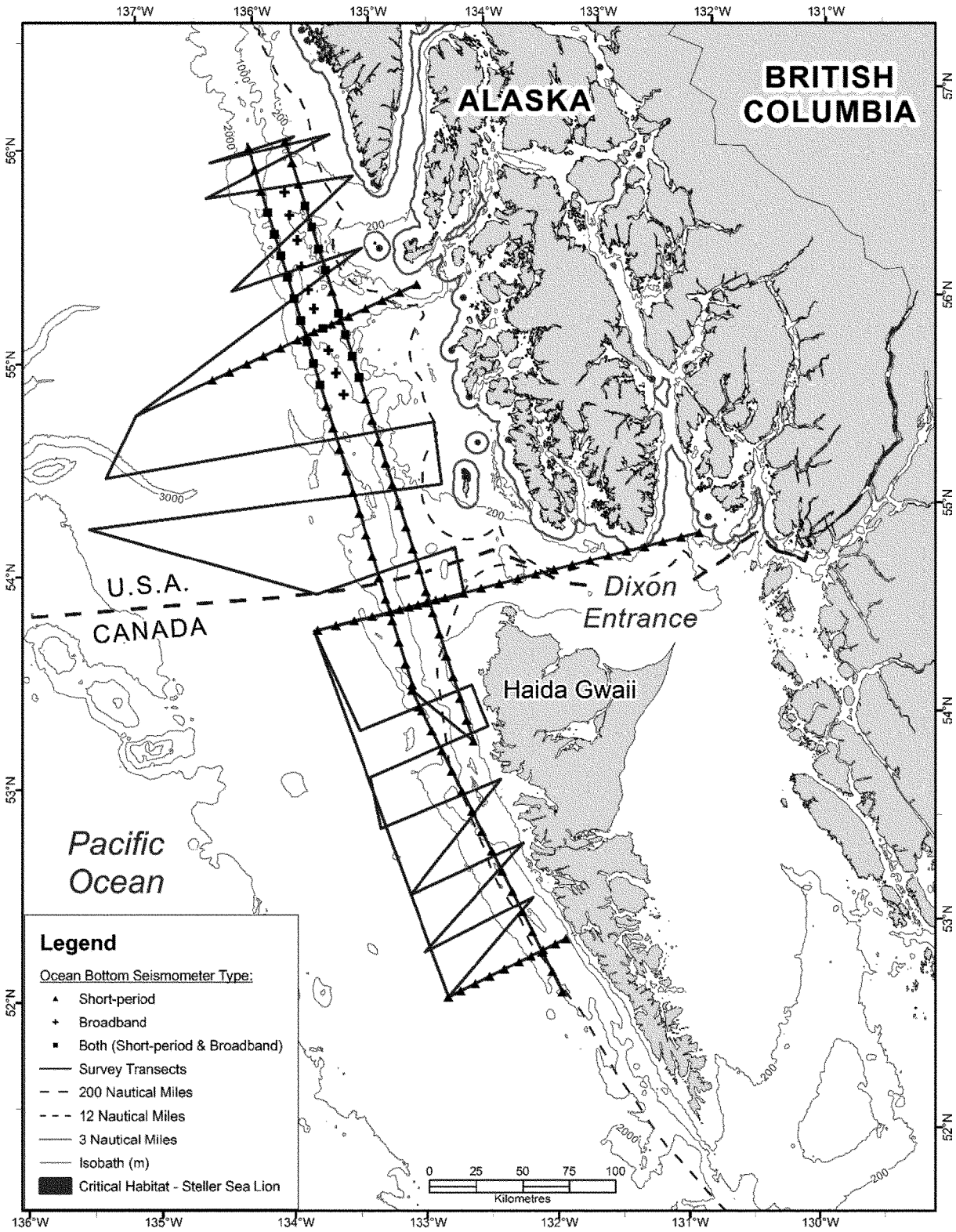

Figure 1. Location of the Proposed Seismic Survey in the Northeast Pacific Ocean

BILLING CODE 3510–22–C

Detailed Description of Specific Activity

The procedures to be used for the proposed survey would be similar to those used during previous seismic surveys by L–DEO and would use conventional seismic methodology. The surveys would involve one source vessel, the R/V *Langseth.* R/V *Langseth* would deploy an array of 36 airguns as an energy source with a total volume of 6,600 in^3. The array consists of 36 elements, including 20 Bolt 1500LL airguns with volumes of 180 to 360 in^3 and 16 Bolt 1900LLX airguns with volumes of 40 to 120 in^3. The airgun array configuration is illustrated in Figure 2–11 of NSF and USGS's Programmatic Environmental Impact Statement (PEIS; NSF–USGS, 2011). (The PEIS is available online at: *www.nsf.gov/geo/oce/envcomp/usgs-nsf-marine-seismic-research/nsf-usgs-final-eis-oeis-with-appendices.pdf*). The vessel speed during seismic operations would be approximately 4.2 knots (kn) (~7.8 km/hour) during the survey and the airgun array would be towed at a depth of 12 m. The receiving system would consist of OBSs and a towed hydrophone streamer with a nominal length of 15 km (OBS and multi-channel seismic (MCS) shooting). As the airguns are towed along the survey lines, the hydrophone streamer would transfer the data to the on-board processing system, and the OBSs would receive and store the returning acoustic signals internally for later analysis.

Approximately 60 short-period OBSs would be deployed and subsequently retrieved at a total of 123 sites in multiple phases from a second vessel, the Canadian Coast Guard ship *John P. Tully* (CCGS *Tully*). Along OBS refraction lines, OBSs would be deployed by CCGS *Tully* at 10 km intervals, with a spacing of 5 km over the central 40 km of the fault zone for fault-normal crossings. Twenty-eight broadband OBS instruments would also collect data during the survey and would be deployed prior to the active-source seismic survey, depending on logistical constraints. When an OBS is ready to be retrieved, an acoustic release transponder (pinger) interrogates the instrument at a frequency of 8–11 kHz; a response is received at 11.5–13 kHz. The burn-wire release assembly is then activated, and the instrument is released from its 80-kg anchor to float to the surface. Take of marine mammals is not expected to occur incidental to L–DEO's use of OBSs.

The airguns would fire at a shot interval of 50 m (approximately 23 s) during MCS shooting with the hydrophone streamer (approximately 42 percent of survey effort), at a 150-m interval (approximately 69 s) during refraction surveying to OBSs (approximately 29 percent of survey effort), and at a shot interval of every minute (approximately 130 m) during turns (approximately 29 percent of survey effort).

Short-period OBSs would be deployed first along five OBS refraction lines by CCGS *Tully.* Two OBS lines run parallel to the coast, and three are perpendicular to the coast; one perpendicular line is located off Southeast Alaska, one is off Haida Gwaii, British Columbia, and another is located in Dixon Entrance. Please see Figure 1 for all location references. Following refraction shooting of a single line, short-period instruments on that line would be recovered, serviced, and redeployed on a subsequent refraction line while MCS data would be acquired by the *Langseth.* MCS lines would be acquired off Southeast Alaska, Haida Gwaii, and Dixon Entrance. The coast-parallel OBS refraction transect nearest to shore would only be surveyed once at OBS shot spacing. The other coast-parallel OBS refraction transect (on the ocean side) would be acquired twice, once during refraction and once during reflection surveys. In addition, portions of the three coast-perpendicular OBS refraction lines would also be surveyed twice, once for OBS shot spacing and once for MCS shot spacing. The coincident reflection/refraction profiles that run parallel to the coast would be acquired in multiple segments to ensure straight-line geometry. Sawtooth transits during which seismic data would be acquired would take place between transect lines when possible; otherwise, boxcar turns would be performed to save time. Both reflection and refraction surveys would use the same airgun array with the same discharge volume. There could be additional seismic operations associated with turns, airgun testing, and repeat coverage of any areas where initial data quality is sub-standard, and 25 percent has been added to the assumed survey line-kms to account for this potential.

Note that the location of some tracklines has been modified from the original proposal as represented in Figure 1 and reflected in the take estimation analysis (see Estimated Take). However, these minor modifications do not substantively impact the location of survey effort or the proportion of survey effort in different depth bins and, therefore, the original take estimates remain accurate.

In addition to the operations of the airgun array, a multibeam echosounder (MBES), a sub-bottom profiler (SBP), and an Acoustic Doppler Current Profiler (ADCP) would be operated from R/V *Langseth* continuously during the seismic surveys, but not during transit to and from the survey area. Take of marine mammals is not expected to occur incidental to use of the MBES, SBP, or ADCP because they will be operated only during seismic acquisition, and it is assumed that, during simultaneous operations of the airgun array and the other sources, any marine mammals close enough to be affected by the MBES, SBP, and ADCP would already be affected by the airguns. However, whether or not the airguns are operating simultaneously with the other sources, given the other sources' characteristics (*e.g.,* narrow downward-directed beam), marine mammals would experience no more than one or two brief ping exposures from them, if any exposure were to occur. Proposed mitigation, monitoring, and reporting measures are described in detail later in this document (please see Proposed Mitigation and Proposed Monitoring and Reporting).

Description of Marine Mammals in the Area of Specified Activities

Sections 3 and 4 of the application summarize available information regarding status and trends, distribution and habitat preferences, and behavior and life history, of the potentially affected species. Additional information regarding population trends and threats may be found in NMFS' Stock Assessment Reports (SARs; *www.fisheries.noaa.gov/national/marine-mammal-protection/marine-mammal-stock-assessments*) and more general information about these species (*e.g.,* physical and behavioral descriptions) may be found on NMFS' website (*www.fisheries.noaa.gov/find-species*).

Table 1 lists all species with expected potential for occurrence in the survey area and summarizes information related to the population or stock, including regulatory status under the MMPA and Endangered Species Act (ESA) and potential biological removal (PBR), where known. For taxonomy, we follow Committee on Taxonomy (2020). PBR is defined by the MMPA as the maximum number of animals, not including natural mortalities, that may be removed from a marine mammal stock while allowing that stock to reach or maintain its optimum sustainable population (as described in NMFS's SARs). While no mortality is anticipated or authorized here, PBR and annual serious injury and mortality from anthropogenic sources are included here

as gross indicators of the status of the species and other threats.

Marine mammal abundance estimates presented in this document represent the total number of individuals that make up a given stock or the total number estimated within a particular study or survey area. NMFS' stock abundance estimates for most species represent the total estimate of individuals within the geographic area, if known, that comprises that stock. For some species, this geographic area may extend beyond U.S. waters. All managed stocks in this region are assessed in NMFS' U.S. Pacific and Alaska SARs. All MMPA stock information presented in Table 1 is the most recent available at the time of publication and is available in the 2019 SARs (Caretta *et al.,* 2020; Muto *et al.,* 2020) and draft 2020 SARs (available online at: *www.fisheries.noaa.gov/national/marine-mammal-protection/draft-marine-mammal-stock-assessment-reports*). Where available, abundance and status information is also presented for marine mammals in British Columbia waters.

Twenty-one species (with 28 managed stocks) are considered to have the potential to occur in the proposed survey area. Species that could potentially occur in the proposed research area but are not likely to be harassed due to the rarity of their occurrence (*i.e.,* are considered extralimital or rare visitors to southeast Alaska/northern British Columbia) are described briefly but omitted from further analysis. These generally include species that do not normally occur in the area but for which there are one or more occurrence records that are considered beyond the normal range of the species. These species include pygmy sperm whale (*Kogia breviceps*), dwarf sperm whale (*K. sima*), Blainville's beaked whale (*Mesoplodon densirostris*), Hubbs' beaked whale (*Mesoplodon carlhubbsi*), false killer whale (*Pseudorca crassidens*), short-finned pilot whale (*Globicephala macrorhynchus*), common bottlenose dolphin (*Tursiops truncatus*), common dolphin (*Delphius delphis*), striped dolphin (*Stenella coeruleoalba*), and rough-toothed dolphin (*Steno bredanensis*), which are all typically distributed further south in the California Current ecosystem, and beluga whales (*Delphinapterus leucas*), which are found further north, with a population in Yakutat Bay.

The North Pacific right whale (*Eubalaena japonica*) historically occurred across the North Pacific Ocean in subpolar to temperate waters, including waters off the coast of British Columbia (Scarff, 1986; Clapham *et al.,* 2004). Sightings of this endangered species are now extremely rare, occurring primarily in the Okhotsk Sea and the eastern Bering Sea (Brownell *et al.,* 2001; Shelden *et al.,* 2005; Wade *et al.,* 2006; Zerbini *et al.,* 2010). In 2013, two North Pacific right whale sightings were made off the coast of British Columbia (U.S. Department of the Navy, 2015). There have also been four sightings, each of a single North Pacific right whale, in California waters within approximately the last 30 years (most recently in 2017) (Carretta *et al.,* 1994; Brownell *et al.,* 2001; Price, 2017). There is a very low probability of encountering this species in the action area, and it is not discussed further.

There are eight killer whale stocks recognized in the U.S. Pacific, with Southern Resident killer whales being the only ESA-listed population. Southern Resident killer whales primarily occur in the southern Strait of Georgia, Strait of Juan de Fuca, Puget Sound, and the southern half of the west coast of Vancouver Island (Carretta *et al.,* 2020). However, they have been observed in southeast Alaska. In 2007, whales from L-pod were sighted off Chatham Strait, Alaska, the farthest north they have ever been documented (Carretta *et al.,* 2020). During the summer, Southern Resident killer whales typically spend their time within the inland waters of Washington and southern British Columbia, south of the proposed survey area. There is a very low probability of encountering this stock in the action area, and it is not discussed further.

In addition, the northern sea otter (*Enhydra lutris kenyoni*) is found in coastal waters of Alaska. However, this species is managed by the U.S. Fish and Wildlife Service and is not considered further in this document.

TABLE 1—MARINE MAMMALS THAT COULD OCCUR IN THE SURVEY AREA

Common name	Scientific name	Stock	ESA/MMPA status; strategic (Y/N) [1]	Stock abundance (CV, N_{min}, most recent abundance survey) [2]	British Columbia abundance [3]	PBR	Annual M/SI [4]
Order Cetartiodactyla—Cetacea—Superfamily Mysticeti (baleen whales)							
Family Eschrichtiidae: Gray whale	*Eschrichtius robustus*	Eastern North Pacific (ENP)*.	-; N	26,960 (0.05; 25,849; 2016).		801	131
		Western North Pacific (WNP)*.	E/D; Y	290 (n/a; 271; 2016)		0.12	Unk
Family Balaenopteridae (rorquals):							
Humpback whale	*Megaptera novaeangliae kuzira.*	Central North Pacific (CNP)*.	E/D; Y	10,103 (0.3; 7,891; 2006).	1,029	83	26
Minke whale	*Balaenoptera acutorostrata scammoni.*	Alaska*	-; N	Unknown	522	Undet.	0
Sei whale	*B. borealis borealis*	ENP	E/D; Y	519 (0.4; 374; 2014)		0.75	≥0.2
Fin whale	*B. physalus physalus*	Northeast Pacific*	E/D; Y	Unknown	329	Undet.	0.6
Blue whale	*B. musculus musculus*	ENP	E/D; Y	1,496 (0.44; 1,050; 2014).		[7]1.2	≥19.4
Superfamily Odontoceti (toothed whales, dolphins, and porpoises)							
Family Physeteridae: Sperm whale	*Physeter macrocephalus*	North Pacific*	E/D; Y	Unknown		Undet.	3.5
Family Ziphiidae (beaked whales):							
Cuvier's beaked whale	*Ziphius cavirostris*	Alaska*	-; N	Unknown		Undet.	0
Baird's beaked whale	*Berardius bairdii*	Alaska*	-; N	Unknown		Undet.	0
Stejneger's beaked whale.	*Mesoplodon stejnegeri*	Alaska*	-; N	Unknown		Undet.	0
Family Delphinidae:							

TABLE 1—MARINE MAMMALS THAT COULD OCCUR IN THE SURVEY AREA—Continued

Common name	Scientific name	Stock	ESA/MMPA status; strategic (Y/N) [1]	Stock abundance (CV, N_{min}, most recent abundance survey) [2]	British Columbia abundance [3]	PBR	Annual M/SI [4]
Pacific white-sided dolphin.	*Lagenorhynchus obliquidens.*	North Pacific [6]	-; N	26,880 (n/a; 26,880; 1990).	22,160	Undet.	0
Northern right whale dolphin.	*Lissodelphis borealis*	CA/OR/WA	-; N	26,556 (0.44; 18,608; 2014).		179	3.8
Risso's dolphin	*Grampus griseus*	CA/OR/WA	-; N	6,336 (0.32; 4,817; 2014).		46	≥3.7
Killer whale	*Orcinus orca* [5]	ENP Offshore	-; N	300 (0.1; 276; 2012)	371	2.8	0
		ENP Gulf of Alaska, Aleutian Islands, and Bering Sea Transient.	-; N	587 (n/a; 2012)		5.9	0.8
		ENP West Coast Transient	-; N	349 (n/a; 2018)		3.5	0.4
		ENP Alaska Resident	-; N	2,347 (n/a; 2012)		24	1
		Northern Resident	-; N	302 (n/a; 2018)		2.2	0.2
Family Phocoenidae (porpoises):							
Harbor porpoise	*Phocoena phocoena vomerina.*	Southeast Alaska *	-; Y	Unknown	8,091	Undet.	34
Dall's porpoise	*Phocoenoides dalli dalli*	Alaska [6]	-; N	83,400 (0.097; n/a; 1991).	5,303	Undet.	38
Order Carnivora—Superfamily Pinnipedia							
Family Otariidae (eared seals and sea lions):							
Northern fur seal	*Callorhinus ursinus*	Pribilof Islands/Eastern Pacific.	D; Y	608,143 (0.2; 514,738; 2018).		11,067	387
California sea lion	*Zalophus californianus*	United States	-/-; N	257,606 (N/A, 233,515, 2014).		14,011	≥321
Steller sea lion	*Eumetopias jubatus jubatus.*	Western U.S. *	E/D; Y	52,932 (n/a; 2019)	15,348	318	255
	E. j. monteriensis	Eastern U.S. *	-/-; N	43,201 (n/a; 2017)		2,592	112
Family Phocidae (earless seals):							
Harbor seal	*Phoca vitulina richardii*	Sitka/Chatham Strait	-; N	13,289 (n/a; 11,883; 2015).	24,916	356	77
		Dixon/Cape Decision	-; N	23,478 (n/a; 21,453; 2015).		644	69
		Clarence Strait	-; N	27,659 (n/a; 24,854; 2015).		746	40
Northern elephant seal	*Mirounga angustirostris*	California Breeding	-; N	179,000 (n/a; 81,368; 2010).		4,882	8.8

* Stocks marked with an asterisk are addressed in further detail in text below.

[1] Endangered Species Act (ESA) status: Endangered (E), Threatened (T)/MMPA status: Depleted (D). A dash (-) indicates that the species is not listed under the ESA or designated as depleted under the MMPA. Under the MMPA, a strategic stock is one for which the level of direct human-caused mortality exceeds PBR or which is determined to be declining and likely to be listed under the ESA within the foreseeable future. Any species or stock listed under the ESA is automatically designated under the MMPA as depleted and as a strategic stock.

[2] NMFS marine mammal stock assessment reports at: *www.fisheries.noaa.gov/national/marine-mammal-protection/marine-mammal-stock-assessments.* CV is coefficient of variation; N_{min} is the minimum estimate of stock abundance. In some cases, CV is not applicable. For most stocks of killer whales, the abundance values represent direct counts of individually identifiable animals; therefore there is only a single abundance estimate with no associated CV. For certain stocks of pinnipeds, abundance estimates are based upon observations of animals (often pups) ashore multiplied by some correction factor derived from knowledge of the species' (or similar species') life history to arrive at a best abundance estimate; therefore, there is no associated CV. In these cases, the minimum abundance may represent actual counts of all animals ashore.

[3] Total abundance estimates for animals in British Columbia based on surveys of the Strait of Georgia, Johnstone Strait, Queen Charlotte Sound, Hecate Strait, and Dixon Entrance. This column represents estimated abundance of animals in British Columbia, where available, but does not necessarily represent additional stocks. Please see Best *et al.* (2015) and Pitcher *et al.* (2007) for additional information.

[4] These values, found in NMFS's SARs, represent annual levels of human-caused mortality plus serious injury from all sources combined (*e.g.,* commercial fisheries, subsistence hunting, ship strike). Annual M/SI often cannot be determined precisely and is in some cases presented as a minimum value. All M/SI values are as presented in the draft 2020 SARs.

[5] Transient and resident killer whales are considered unnamed subspecies (Committee on Taxonomy, 2020).

[6] Abundance estimates for these stocks are not considered current. PBR is therefore considered undetermined for these stocks, as there is no current minimum abundance estimate for use in calculation. We nevertheless present the most recent abundance estimates, as these represent the best available information for use in this document.

[7] This stock is known to spend a portion of time outside the U.S. EEZ. Therefore, the PBR presented here is the allocation for U.S. waters only and is a portion of the total. The total PBR for blue whales is 2.1 (7/12 allocation for U.S. waters). Annual M/SI presented for these species is for U.S. waters only.

Table 1 denotes the status of species and stocks under the U.S. MMPA and ESA. We note also that under Canada's Species at Risk Act, the sei whale and blue whale are listed as endangered; the fin whale and northern resident, offshore, and transient populations of killer whales are listed as threatened; and the humpback whale, harbor porpoise, and Steller sea lion are considered species of special concern.

Two populations of gray whales are recognized, eastern and western North Pacific (ENP and WNP). WNP whales are known to feed in the Okhotsk Sea and off of Kamchatka before migrating south to poorly known wintering grounds, possibly in the South China Sea. The two populations have historically been considered geographically isolated from each other; however, data from satellite-tracked whales indicate that there is some overlap between the stocks. Two WNP whales were tracked from Russian foraging areas along the Pacific rim to Baja California (Mate *et al.,* 2011), and, in one case where the satellite tag remained attached to the whale for a

longer period, a WNP whale was tracked from Russia to Mexico and back again (IWC, 2012). A number of whales are known to have occurred in the eastern Pacific through comparisons of ENP and WNP photo-identification catalogs (IWC, 2012; Weller *et al.,* 2011; Burdin *et al.,* 2011). Therefore, a portion of the WNP population is assumed to migrate, at least in some years, to the eastern Pacific during the winter breeding season. Based on guidance provided through interagency consultation under section 7 of the ESA, approximately 0.1 percent of gray whales occurring in southeast Alaska and northern British Columbia are likely to be from the Western North Pacific stock; the rest would be from the Eastern North Pacific stock.

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 delineated 14 distinct population segments (DPS) with different listing statuses (81 FR 62259; September 8, 2016) pursuant to the ESA. The DPSs that occur in U.S. waters do not necessarily equate to the existing stocks designated under the MMPA and shown in Table 1.

In the eastern North Pacific, three humpback whale DPSs may occur: The Hawaii DPS (not listed), Mexico DPS (threatened), and Central America DPS (endangered). Individuals encountered in the proposed survey area would likely be from the Hawaii DPS, followed by the Mexico DPS; individuals from the Central America DPS are unlikely to feed in northern British Columbia and Southeast Alaska (Ford *et al.,* 2014). According to Wade (2017), in southeast Alaska and northern British Columbia, encountered whales are most likely to be from the Hawaii DPS (96.1 percent), but could be from the Mexico DPS (3.8 percent).

Although no comprehensive abundance estimate is available for the Alaska stock of minke whales, recent surveys provide estimates for portions of the stock's range. A 2010 survey conducted on the eastern Bering Sea shelf produced a provisional abundance estimate of 2,020 (CV = 0.73) whales (Friday *et al.,* 2013). This estimate is considered provisional because it has not been corrected for animals missed on the trackline, animals submerged when the ship passed, or responsive movement. Additionally, line-transect surveys were conducted in shelf and nearshore waters (within 30–45 nautical miles of land) in 2001–2003 between the Kenai Peninsula (150° W) and Amchitka Pass (178° W). Minke whale abundance was estimated to be 1,233 (CV = 0.34) for this area (also not been corrected for animals missed on the trackline) (Zerbini *et al.,* 2006). The majority of the sightings were in the Aleutian Islands, rather than in the Gulf of Alaska, and in water shallower than 200 m. These estimates cannot be used as an estimate of the entire Alaska stock of minke whales because only a portion of the stock's range was surveyed. Similarly, although a comprehensive abundance estimate is not available for the northeast Pacific stock of fin whales, provisional estimates representing portions of the range are available. The same 2010 survey of the eastern Bering Sea shelf provided an estimate of 1,061 (CV = 0.38) fin whales (Friday *et al.,* 2013). The estimate is not corrected for missed animals, but is expected to be robust as previous studies have shown that only small correction factors are needed for fin whales (Barlow, 1995). Zerbini *et al.* (2006) produced an estimate of 1,652 (95 percent CI: 1,142–2,389) fin whales for the area described above.

Current and historical estimates of the abundance of sperm whales in the North Pacific are considered unreliable, and caution should be exercised in interpreting published estimates (Muto *et al.,* 2017). However, Kato and Miyashita (1998) produced an abundance estimate of 102,112 (CV = 0.155) sperm whales in the western North Pacific (believed to be positively biased). The number of sperm whales occurring within Alaska waters is unknown.

Very little information is available regarding beaked whale stocks in Alaska, with no reliable abundance estimates available for any stock. Sightings of all beaked whale species are rare in Alaska, and their presence and distribution have mostly been inferred from stranding data. During long-term passive acoustic monitoring conducted at five sites in the Gulf of Alaska from 2011–15, all three species were detected at three sites located on the continental slope and offshore seamounts (Rice *et al.,* 2021). There was no clear diel or interannual pattern for any species at any site. However, a different species was predominant at each site and, when detected at the same locations, detection peaks were all seasonally offset, demonstrating some degree of habitat partitioning. The authors noted that detections for all three beaked whale species were low throughout the summer. Stranding records exist for all three species of beaked whale in the survey area.

Using 2010–2012 survey data for the inland waters of southeast Alaska, Dahlheim *et al.* (2015) calculated a combined abundance estimate for harbor porpoise in the northern (including Cross Sound, Icy Strait, Glacier Bay, Lynn Canal, Stephens Passage, and Chatham Strait) and southern (including Frederick Sound, Sumner Strait, Wrangell and Zarembo Islands, and Clarence Strait as far south as Ketchikan) regions of the inland waters of 975 (95 percent CI = 857–1,109). This abundance estimate was subsequently corrected for detection biases, which are expected to be high for harbor porpoise (Muto *et al.,* 2020). The resulting abundance estimates are 553 harbor porpoise (CV = 0.13) in the northern inland waters and 801 harbor porpoise (CV = 0.15) in the southern inland waters (Muto *et al.,* 2020).

The Steller sea lion ranges from Japan, through the Okhotsk and Bering Seas, to central California. It consists of two morphologically, ecologically, and behaviorally separate DPSs: The Eastern, which includes sea lions in southeast Alaska, British Columbia, Washington, Oregon, and California; and the Western, which includes sea lions in all other regions of Alaska, as well as Russia and Japan. At the time of their initial listing under the ESA, Steller sea lions were considered a single population listed as threatened. In 1997, following a status review, NMFS established two DPSs of Steller sea lions, and issued a final determination to list the Western DPS as endangered under the ESA. The Eastern DPS of Steller sea lion was delisted in 2013. According to Hastings *et al.* (2020), approximately 2.2 percent of Steller sea lions occurring in the proposed action area are likely to be from the Western DPS; the rest would be from the Eastern DPS.

Important Habitat

Several biologically important areas (BIA) for marine mammals are recognized in southeast Alaska, and critical habitat is designated in southeast Alaska for the Steller sea lion (58 FR 45269; August 27, 1993) and the Mexico DPS of humpback whale (86 FR 21082; April 21, 2021). Note that although the eastern DPS of Steller sea lion was delisted in 2013, the change in listing status does not affect the designated critical habitat. Critical habitat is defined by section 3 of the ESA as (1) the specific areas within the geographical area occupied by the species, at the time it is listed, on which are found those physical or biological features (a) essential to the conservation of the species and (b) which may require special management considerations or protection; and (2) specific areas outside the geographical area occupied by the

species at the time it is listed, upon a determination by the Secretary that such areas are essential for the conservation of the species.

Mexico DPS humpback whale critical habitat includes marine waters in Washington, Oregon, California, and Alaska. Only the areas designated in southeast Alaska fall within the survey area. The relevant designated critical habitat (Unit 10) extends from 139°24′ W, southeastward to the U.S. border with Canada. The area also extends offshore to a boundary drawn along the 2,000-m isobath. The essential feature for Mexico DPS humpback whale critical habitat is prey species, primarily euphausiids and small pelagic schooling fishes of sufficient quality, abundance, and accessibility within humpback whale feeding areas to support feeding and population growth. This area was drawn to encompass well-established feeding grounds in southeast Alaska and an identified feeding BIA (86 FR 21082; April 21, 2021). Humpback whales occur year-round in this unit, with highest densities occurring in summer and fall (Baker *et al.,* 1985, 1986).

Critical habitat for humpback whales has been designated under Canadian law in four locations in British Columbia (DFO, 2013), including in the waters of the survey area off Haida Gwaii (Langara Island and Southeast Moresby Island). These areas show persistent aggregations of humpback whales and have features such as prey availability, suitable acoustic environment, water quality, and physical space that allow for feeding, foraging, socializing, and resting (DFO, 2013).

Designated Steller sea lion critical habitat includes terrestrial, aquatic, and air zones that extend 3,000 ft (0.9 km) landward, seaward, and above each major rookery and major haul-out in Alaska. Within the survey area, critical habitat is located on islands off the coast of southeast Alaska (*e.g.,* Sitka, Coronation Island, Noyes Island, and Forrester Island). The physical and biological features identified for the aquatic areas of Steller sea lion designated critical habitat that occur within the survey area are those that support foraging, such as adequate prey resources and available foraging habitat. The proposed survey tracklines do not directly overlap any areas of Steller sea lion critical habitat, though the extent of the estimated ensonified area associated with the survey would overlap with units of Steller sea lion critical habitat. However, the brief duration of ensonification for any critical habitat unit leads us to conclude that any impacts on Steller sea lion habitat would be insignificant and would not affect the conservation value of the critical habitat.

For humpback whales, seasonal feeding BIAs for spring (March–May), summer (June–August), and fall (September–November) are recognized in southeast Alaska (Ferguson *et al.,* 2015). It should be noted that the aforementioned designated critical habitat in the survey area was based in large part on the same information that informed an understanding of the BIAs. Though the BIAs are not synonymous with critical habitat designated under the ESA, they were regarded by the humpback whale critical habitat review team as an important source of information and informative to their review of areas that meet the definition of critical habitat for humpback whales (86 FR 21082; April 21, 2021). The aforementioned southeast Alaska unit of designated critical habitat encompasses the BIAs, with the offshore and nearshore boundaries corresponding with the BIA boundary.

A separate feeding BIA is recognized in southeast Alaska for gray whales. Once considered only a migratory pathway, the Gulf of Alaska is now known to provide foraging and overwintering habitat for ENP gray whales (Ferguson *et al.,* 2015). Based on the regular occurrence of feeding gray whales (including repeat sightings of individuals across years) off southeast Alaska, an area off of Sitka is recognized. The greatest densities of gray whales on the feeding area in southeast Alaska occur from May to November. However, this area is located to the north of the proposed survey area and would not be expected to be meaningfully impacted by the survey activities. A separate migratory BIA is recognized as extending along the continental shelf throughout the Gulf of Alaska. During their annual migration, most gray whales pass through the Gulf of Alaska in the fall (November through January; southbound) and again in the spring (March through May; northbound) (Ferguson *et al.,* 2015). Therefore, the planned survey would not be expected to impact gray whale migratory habitat due to the timing of the survey in late summer. No important behaviors of gray whales in either the feeding or migratory BIAs are expected to be affected. For more information on BIAs, please see Ferguson *et al.* (2015) or visit *https://oceannoise.noaa.gov/biologically-important-areas.*

Unusual Mortality Events (UME)

A UME is defined under the MMPA as ''a stranding that is unexpected; involves a significant die-off of any marine mammal population; and demands immediate response.'' For more information on UMEs, please visit: *www.fisheries.noaa.gov/national/marine-mammal-protection/marine-mammal-unusual-mortality-events.* There is a currently ongoing UME affecting gray whales throughout their migratory range.

Since January 1, 2019, elevated gray whale strandings have occurred along the west coast of North America from Mexico through Alaska. As of May 6, 2021, there have been a total of 454 whales reported in the event, with approximately 218 dead whales in Mexico, 218 whales in the United States (62 in California; 10 in Oregon; 53 in Washington, 93 in Alaska), and 18 whales in British Columbia, Canada. For the United States, the historical 18-year 5-month average (Jan–May) is 14.8 whales for the four states for this same time-period. Several dead whales have been emaciated with moderate to heavy whale lice (cyamid) loads. Necropsies have been conducted on a subset of whales with additional findings of vessel strike in three whales and entanglement in one whale. In Mexico, 50–55 percent of the free-ranging whales observed in the lagoons in winter have been reported as ''skinny'' compared to the annual average of 10–12 percent ''skinny'' whales normally seen. The cause of the UME is as yet undetermined. For more information, please visit: *www.fisheries.noaa.gov/national/marine-life-distress/2019–2020-gray-whale-unusual-mortality-event-along-west-coast-and.*

Another recent, notable UME involved large whales and occurred in the western Gulf of Alaska and off of British Columbia, Canada. Beginning in May 2015, elevated large whale mortalities (primarily fin and humpback whales) occurred in the areas around Kodiak Island, Afognak Island, Chirikof Island, the Semidi Islands, and the southern shoreline of the Alaska Peninsula. Although most carcasses have been non-retrievable as they were discovered floating and in a state of moderate to severe decomposition, the UME is likely attributable to ecological factors, *i.e.,* the 2015 El Niño, ''warm water blob,'' and the Pacific Coast domoic acid bloom. The UME was closed in 2016. More information is available online at *www.fisheries.noaa.gov/national/marine-life-distress/2015–2016-large-whale-unusual-mortality-event-western-gulf-alaska.*

Marine Mammal Hearing

Hearing is the most important sensory modality for marine mammals

underwater, and exposure to anthropogenic sound can have deleterious effects. To appropriately assess the potential effects of exposure to sound, it is necessary to understand the frequency ranges marine mammals are able to hear. Current data indicate that not all marine mammal species have equal hearing capabilities (*e.g.,* Richardson *et al.,* 1995; Wartzok and Ketten, 1999; Au and Hastings, 2008). To reflect this, Southall *et al.* (2007) recommended that marine mammals be divided into functional hearing groups based on directly measured or estimated hearing ranges on the basis of available behavioral response data, audiograms derived using auditory evoked potential techniques, anatomical modeling, and other data. Note that no direct measurements of hearing ability have been successfully completed for mysticetes (*i.e.,* low-frequency cetaceans). Subsequently, NMFS (2018) described generalized hearing ranges for these marine mammal hearing groups. Generalized hearing ranges were chosen based on the approximately 65 decibel (dB) threshold from the normalized composite audiograms, with the exception for lower limits for low-frequency cetaceans where the lower bound was deemed to be biologically implausible and the lower bound from Southall *et al.* (2007) retained. Marine mammal hearing groups and their associated hearing ranges are provided in Table 2.

TABLE 2—MARINE MAMMAL HEARING GROUPS

[NMFS, 2018]

Hearing group	Generalized hearing range *
Low-frequency (LF) cetaceans (baleen whales)	7 Hz to 35 kHz.
Mid-frequency (MF) cetaceans (dolphins, toothed whales, beaked whales, bottlenose whales)	150 Hz to 160 kHz.
High-frequency (HF) cetaceans (true porpoises, *Kogia,* river dolphins, cephalorhynchid, *Lagenorhynchus cruciger* & *L. australis*).	275 Hz to 160 kHz.
Phocid pinnipeds (PW) (underwater) (true seals)	50 Hz to 86 kHz.
Otariid pinnipeds (OW) (underwater) (sea lions and fur seals)	60 Hz to 39 kHz.

* Represents the generalized hearing range for the entire group as a composite (*i.e.,* all species within the group), where individual species' hearing ranges are typically not as broad. Generalized hearing range chosen based on ~65 dB threshold from normalized composite audiogram, with the exception for lower limits for LF cetaceans (Southall *et al.* 2007) and PW pinniped (approximation).

The pinniped functional hearing group was modified from Southall *et al.* (2007) on the basis of data indicating that phocid species have consistently demonstrated an extended frequency range of hearing compared to otariids, especially in the higher frequency range (Hemilä *et al.,* 2006; Kastelein *et al.,* 2009; Reichmuth and Holt, 2013).

For more detail concerning these groups and associated frequency ranges, please see NMFS (2018) for a review of available information. Twenty-one marine mammal species (16 cetacean and 5 pinniped (3 otariid and 2 phocid) species) are considered herein. Of the cetacean species that may be present, six are classified as low-frequency cetaceans (*i.e.,* all mysticete species), eight are classified as mid-frequency cetaceans (*i.e.,* all delphinid and ziphiid species and the sperm whale), and two are classified as high-frequency cetaceans (*i.e.,* porpoises).

Potential Effects of Specified Activities on Marine Mammals and Their Habitat

This section includes a summary of the ways that L–DEO's specified activity may impact marine mammals and their habitat. Detailed descriptions of the potential effects of similar specified activities have been provided in other recent **Federal Register** notices, including for survey activities using the same methodology and over a similar amount of time, and affecting similar species (*e.g.,* 83 FR 29212, June 22, 2018; 84 FR 14200, April 9, 2019; 85 FR 19580, April 7, 2020). No significant new information is available, and we refer the reader to these documents for additional detail. The Estimated Take section includes a quantitative analysis of the number of individuals that are expected to be taken by L–DEO's activity. The Negligible Impact Analysis and Determination section considers the potential effects of the specified activity, the Estimated Take section, and the Proposed Mitigation section, to draw conclusions regarding the likely impacts of these activities on the reproductive success or survivorship of individuals and how those impacts on individuals are likely to impact marine mammal species or stocks.

Background on Active Acoustic Sound Sources and Acoustic Terminology

This section contains a brief technical background on sound, on the characteristics of certain sound types, and on metrics used in this proposal inasmuch as the information is relevant to the specified activity and to the discussion of the effects of the specified activity on marine mammals in this document. For general information on sound and its interaction with the marine environment, please see, *e.g.,* Au and Hastings (2008); Richardson *et al.* (1995); Urick (1983).

Sound travels in waves, the basic components of which are frequency, wavelength, velocity, and amplitude. Frequency is the number of pressure waves that pass by a reference point per unit of time and is measured in hertz or cycles per second. Wavelength is the distance between two peaks or corresponding points of a sound wave (length of one cycle). Higher frequency sounds have shorter wavelengths than lower frequency sounds, and typically attenuate (decrease) more rapidly, except in certain cases in shallower water. Amplitude is the height of the sound pressure wave or the ''loudness'' of a sound and is typically described using the relative unit of the decibel. A sound pressure level (SPL) in dB is described as the ratio between a measured pressure and a reference pressure (for underwater sound, this is 1 microPascal (μPa)), and is a logarithmic unit that accounts for large variations in amplitude. Therefore, a relatively small change in dB corresponds to large changes in sound pressure. The source level (SL) represents the SPL referenced at a distance of 1 m from the source (referenced to 1 μPa), while the received level is the SPL at the listener's position (referenced to 1 μPa).

Root mean square (rms) is the quadratic mean sound pressure over the duration of an impulse. Root mean square is calculated by squaring all of the sound amplitudes, averaging the squares, and then taking the square root of the average (Urick, 1983). Root mean square accounts for both positive and negative values; squaring the pressures makes all values positive so that they

may be accounted for in the summation of pressure levels (Hastings and Popper, 2005). This measurement is often used in the context of discussing behavioral effects, in part because behavioral effects, which often result from auditory cues, may be better expressed through averaged units than by peak pressures.

Sound exposure level (SEL; represented as dB re 1 μPa2-s) represents the total energy in a stated frequency band over a stated time interval or event and considers both intensity and duration of exposure. The per-pulse SEL is calculated over the time window containing the entire pulse (*i.e.,* 100 percent of the acoustic energy). SEL is a cumulative metric; it can be accumulated over a single pulse, or calculated over periods containing multiple pulses. Cumulative SEL represents the total energy accumulated by a receiver over a defined time window or during an event. Peak sound pressure (also referred to as zero-to-peak sound pressure or 0-pk) is the maximum instantaneous sound pressure measurable in the water at a specified distance from the source and is represented in the same units as the rms sound pressure.

When underwater objects vibrate or activity occurs, sound-pressure waves are created. These waves alternately compress and decompress the water as the sound wave travels. Underwater sound waves radiate in a manner similar to ripples on the surface of a pond and may be either directed in a beam or beams or may radiate in all directions (omnidirectional sources), as is the case for sound produced by the pile driving activity considered here. The compressions and decompressions associated with sound waves are detected as changes in pressure by aquatic life and man-made sound receptors such as hydrophones.

Even in the absence of sound from the specified activity, the underwater environment is typically loud due to ambient sound, which is defined as environmental background sound levels lacking a single source or point (Richardson *et al.,* 1995). The sound level of a region is defined by the total acoustical energy being generated by known and unknown sources. These sources may include physical (*e.g.,* wind and waves, earthquakes, ice, atmospheric sound), biological (*e.g.,* sounds produced by marine mammals, fish, and invertebrates), and anthropogenic (*e.g.,* vessels, dredging, construction) sound. A number of sources contribute to ambient sound, including wind and waves, which are a main source of naturally occurring ambient sound for frequencies between 200 hertz (Hz) and 50 kilohertz (kHz) (Mitson, 1995). In general, ambient sound levels tend to increase with increasing wind speed and wave height. Precipitation can become an important component of total sound at frequencies above 500 Hz, and possibly down to 100 Hz during quiet times. Marine mammals can contribute significantly to ambient sound levels, as can some fish and snapping shrimp. The frequency band for biological contributions is from approximately 12 Hz to over 100 kHz. Sources of ambient sound related to human activity include transportation (surface vessels), dredging and construction, oil and gas drilling and production, geophysical surveys, sonar, and explosions. Vessel noise typically dominates the total ambient sound for frequencies between 20 and 300 Hz. In general, the frequencies of anthropogenic sounds are below 1 kHz and, if higher frequency sound levels are created, they attenuate rapidly.

The sum of the various natural and anthropogenic sound sources that comprise ambient sound at any given location and time depends not only on the source levels (as determined by current weather conditions and levels of biological and human activity) but also on the ability of sound to propagate through the environment. In turn, sound propagation is dependent on the spatially and temporally varying properties of the water column and sea floor, and is frequency-dependent. As a result of the dependence on a large number of varying factors, ambient sound levels can be expected to vary widely over both coarse and fine spatial and temporal scales. Sound levels at a given frequency and location can vary by 10–20 dB from day to day (Richardson *et al.,* 1995). The result is that, depending on the source type and its intensity, sound from the specified activity may be a negligible addition to the local environment or could form a distinctive signal that may affect marine mammals. Details of source types are described in the following text.

Sounds are often considered to fall into one of two general types: Pulsed and non-pulsed (defined in the following). The distinction between these two sound types is important because they have differing potential to cause physical effects, particularly with regard to hearing (*e.g.,* Ward, 1997 in Southall *et al.,* 2007). Please see Southall *et al.* (2007) for an in-depth discussion of these concepts. The distinction between these two sound types is not always obvious, as certain signals share properties of both pulsed and non-pulsed sounds. A signal near a source could be categorized as a pulse, but due to propagation effects as it moves farther from the source, the signal duration becomes longer (*e.g.,* Greene and Richardson, 1988).

Pulsed sound sources (*e.g.,* airguns, explosions, gunshots, sonic booms, impact pile driving) produce signals that are brief (typically considered to be less than one second), broadband, atonal transients (ANSI, 1986, 2005; Harris, 1998; NIOSH, 1998; ISO, 2003) and occur either as isolated events or repeated in some succession. Pulsed sounds are all characterized by a relatively rapid rise from ambient pressure to a maximal pressure value followed by a rapid decay period that may include a period of diminishing, oscillating maximal and minimal pressures, and generally have an increased capacity to induce physical injury as compared with sounds that lack these features.

Non-pulsed sounds can be tonal, narrowband, or broadband, brief or prolonged, and may be either continuous or intermittent (ANSI, 1995; NIOSH, 1998). Some of these non-pulsed sounds can be transient signals of short duration but without the essential properties of pulses (*e.g.,* rapid rise time). Examples of non-pulsed sounds include those produced by vessels, aircraft, machinery operations such as drilling or dredging, vibratory pile driving, and active sonar systems. The duration of such sounds, as received at a distance, can be greatly extended in a highly reverberant environment.

Airgun arrays produce pulsed signals with energy in a frequency range from about 10–2,000 Hz, with most energy radiated at frequencies below 200 Hz. The amplitude of the acoustic wave emitted from the source is equal in all directions (*i.e.,* omnidirectional), but airgun arrays do possess some directionality due to different phase delays between guns in different directions. Airgun arrays are typically tuned to maximize functionality for data acquisition purposes, meaning that sound transmitted in horizontal directions and at higher frequencies is minimized to the extent possible.

Summary on Specific Potential Effects of Acoustic Sound Sources

Underwater sound from active acoustic sources can include one or more of the following: Temporary or permanent hearing impairment, non-auditory physical or physiological effects, behavioral disturbance, stress, and masking. The degree of effect is intrinsically related to the signal characteristics, received level, distance from the source, and duration of the

sound exposure. Marine mammals exposed to high-intensity sound, or to lower-intensity sound for prolonged periods, can experience hearing threshold shift (TS), which is the loss of hearing sensitivity at certain frequency ranges (Finneran, 2015). TS can be permanent (PTS), in which case the loss of hearing sensitivity is not fully recoverable, or temporary (TTS), in which case the animal's hearing threshold would recover over time (Southall *et al.,* 2007).

Due to the characteristics of airgun arrays as a distributed sound source, maximum estimated Level A harassment isopleths for species of certain hearing groups are assumed to fall within the near field of the array. For these species, *i.e.,* mid-frequency cetaceans and all pinnipeds, animals in the vicinity of L–DEO's proposed seismic survey activity are unlikely to incur PTS. For low-frequency cetaceans and high-frequency cetaceans, potential exposures sufficient to cause low-level PTS may occur on the basis of cumulative exposure level and instantaneous exposure to peak pressure levels, respectively. However, when considered in conjunction with the potential for aversive behavior, relative motion of the exposed animal and the sound source, and the anticipated efficacy of the proposed mitigation requirements, a reasonable conclusion may be drawn that PTS is not a likely outcome for any species. However, we propose to authorize take by Level A harassment, where indicated by the quantitative exposure analysis, for species from the low- and high-frequency cetacean hearing groups. Please see Estimated Take and Proposed Mitigation for further discussion.

Behavioral disturbance may include a variety of effects, including subtle changes in behavior (*e.g.,* minor or brief avoidance of an area or changes in vocalizations), more conspicuous changes in similar behavioral activities, and more sustained and/or potentially severe reactions, such as displacement from or abandonment of high-quality habitat. Behavioral responses to sound are highly variable and context-specific and any reactions depend on numerous intrinsic and extrinsic factors (*e.g.,* species, state of maturity, experience, current activity, reproductive state, auditory sensitivity, time of day), as well as the interplay between factors. Available studies show wide variation in response to underwater sound; therefore, it is difficult to predict specifically how any given sound in a particular instance might affect marine mammals perceiving the signal.

In addition, sound can disrupt behavior through masking, or interfering with, an animal's ability to detect, recognize, or discriminate between acoustic signals of interest (*e.g.,* those used for intraspecific communication and social interactions, prey detection, predator avoidance, navigation). Masking occurs when the receipt of a sound is interfered with by another coincident sound at similar frequencies and at similar or higher intensity, and may occur whether the sound is natural (*e.g.,* snapping shrimp, wind, waves, precipitation) or anthropogenic (*e.g.,* shipping, sonar, seismic exploration) in origin.

Sound may affect marine mammals through impacts on the abundance, behavior, or distribution of prey species (*e.g.,* crustaceans, cephalopods, fish, zooplankton) (*i.e.,* effects to marine mammal habitat). Prey species exposed to sound might move away from the sound source, experience TTS, experience masking of biologically relevant sounds, or show no obvious direct effects. The most likely impacts (if any) for most prey species in a given area would be temporary avoidance of the area. Surveys using active acoustic sound sources move through an area relatively quickly, limiting exposure to multiple pulses. In all cases, sound levels would return to ambient once a survey ends and the noise source is shut down and, when exposure to sound ends, behavioral and/or physiological responses are expected to end relatively quickly. Finally, the survey equipment will not have significant impacts to the seafloor and does not represent a source of pollution.

Vessel Strike

Vessel collisions with marine mammals, or ship strikes, can result in death or serious injury of the animal. These interactions are typically associated with large whales, which are less maneuverable than are smaller cetaceans or pinnipeds in relation to large vessels. The severity of injuries typically depends on the size and speed of the vessel, with the probability of death or serious injury increasing as vessel speed increases (Knowlton and Kraus, 2001; Laist *et al.,* 2001; Vanderlaan and Taggart, 2007; Conn and Silber, 2013). Impact forces increase with speed, as does the probability of a strike at a given distance (Silber *et al.,* 2010; Gende *et al.,* 2011). The chances of a lethal injury decline from approximately 80 percent at 15 kn to approximately 20 percent at 8.6 kn. At speeds below 11.8 kn, the chances of lethal injury drop below 50 percent (Vanderlaan and Taggart, 2007).

Ship strikes generally involve commercial shipping, which is much more common in both space and time than is geophysical survey activity and which typically involves larger vessels moving at faster speeds. Jensen and Silber (2004) summarized ship strikes of large whales worldwide from 1975–2003 and found that most collisions occurred in the open ocean and involved large vessels (*e.g.,* commercial shipping). Commercial fishing vessels were responsible for 3 percent of recorded collisions, while no such incidents were reported for geophysical survey vessels during that time period.

For vessels used in geophysical survey activities, vessel speed while towing gear is typically only 4–5 kn. At these speeds, both the possibility of striking a marine mammal and the possibility of a strike resulting in serious injury or mortality are so low as to be discountable. At average transit speed for geophysical survey vessels (approximately 10 kn), the probability of serious injury or mortality resulting from a strike (if it occurred) is less than 50 percent (Vanderlaan and Taggart, 2007; Conn and Silber, 2013). However, the likelihood of a strike actually happening is again low given the smaller size of these vessels and generally slower speeds. We anticipate that vessel collisions involving seismic data acquisition vessels towing gear, while not impossible, represent unlikely, unpredictable events for which there are no preventive measures. Given the required mitigation measures, the relatively slow speeds of vessels towing gear, the presence of bridge crew watching for obstacles at all times (including marine mammals), the presence of marine mammal observers, and the small number of seismic survey cruises relative to commercial ship traffic, we believe that the possibility of ship strike is discountable and, further, that were a strike of a large whale to occur, it would be unlikely to result in serious injury or mortality. No incidental take resulting from ship strike is anticipated or proposed for authorization, and this potential effect of the specified activity will not be discussed further in the following analysis.

The potential effects of L–DEO's specified survey activity are expected to be limited to Level B harassment consisting of behavioral harassment and/or temporary auditory effects and, for certain species of low- and high-frequency cetaceans only, low-level permanent auditory effects. No permanent auditory effects for any species belonging to other hearing groups, or significant impacts to marine

mammal habitat, including prey, are expected.

Estimated Take

This section provides an estimate of the number of incidental takes proposed for authorization through this IHA, which will inform both NMFS' consideration of ''small numbers'' and the negligible impact determination.

Harassment is the only type of take expected to result from these activities. Except with respect to certain activities not pertinent here, section 3(18) of the MMPA defines ''harassment'' as any act of pursuit, torment, or annoyance, which (i) has the potential to injure a marine mammal or marine mammal stock in the wild (Level A harassment); or (ii) has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering (Level B harassment).

Authorized takes would primarily be by Level B harassment, as use of seismic airguns has the potential to result in disruption of behavioral patterns or temporary auditory effects for individual marine mammals. There is also some potential for auditory injury (Level A harassment) for low-frequency (*i.e.,* mysticetes) and high-frequency cetaceans (*i.e.,* porpoises). The proposed 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 proposed to be authorized for this activity. Below we describe how the take is estimated.

Generally speaking, we estimate take by considering: (1) Acoustic thresholds above which NMFS believes the best available science indicates marine mammals will be behaviorally harassed or incur some degree of permanent hearing impairment; (2) the area or volume of water that will be ensonified above these levels in a day; (3) the density or occurrence of marine mammals within these ensonified areas; and, (4) and the number of days of activities. We note that while these basic factors can contribute to a basic calculation to provide an initial prediction of takes, additional information that can qualitatively inform take estimates is also sometimes available (*e.g.,* previous monitoring results or average group size). Below, we describe the factors considered here in more detail and present the proposed take estimate.

Acoustic Thresholds

NMFS uses acoustic thresholds that identify the received level of underwater sound above which exposed marine mammals would be reasonably expected to be behaviorally harassed (equated to Level B harassment) or to incur PTS of some degree (equated to Level A harassment).

Level B Harassment—Though significantly driven by received level, the onset of behavioral disturbance from anthropogenic noise exposure is also informed to varying degrees by other factors related to the source (*e.g.,* frequency, predictability, duty cycle), the environment (*e.g.,* bathymetry), and the receiving animals (hearing, motivation, experience, demography, behavioral context) and can be difficult to predict (Southall *et al.,* 2007, Ellison *et al.,* 2012). NMFS uses a generalized acoustic threshold based on received level to estimate the onset of behavioral harassment. NMFS predicts that marine mammals may be behaviorally harassed (*i.e.,* Level B harassment) when exposed to underwater anthropogenic noise above received levels of 160 dB re 1 μPa (rms) for the impulsive sources (*i.e.,* seismic airguns) evaluated here.

Level A Harassment—NMFS' Technical Guidance for Assessing the Effects of Anthropogenic Sound on Marine Mammal Hearing (Version 2.0) (Technical Guidance, 2018) identifies dual criteria to assess auditory injury (Level A harassment) to five different marine mammal groups (based on hearing sensitivity) as a result of exposure to noise from two different types of sources (impulsive or non-impulsive). L–DEO's proposed seismic survey includes the use of impulsive (seismic airguns) sources.

These thresholds are provided in the table below. The references, analysis, and methodology used in the development of the thresholds are described in NMFS 2018 Technical Guidance, which may be accessed at *www.fisheries.noaa.gov/national/marine-mammal-protection/marine-mammal-acoustic-technical-guidance*.

TABLE 3—THRESHOLDS IDENTIFYING THE ONSET OF PERMANENT THRESHOLD SHIFT

Hearing group	PTS onset acoustic thresholds * (received level)	
	Impulsive	Non-impulsive
Low-Frequency (LF) Cetaceans	*Cell 1:* $L_{pk,flat}$: 219 dB; $L_{,E,LF,24h}$: 183 dB	*Cell 2:* $L_{,E,LF,24h}$: 199 dB.
Mid-Frequency (MF) Cetaceans	*Cell 3:* $L_{pk,flat}$: 230 dB; $L_{,E,MF,24h}$: 185 dB	*Cell 4:* $L_{,E,MF,24h}$: 198 dB.
High-Frequency (HF) Cetaceans	*Cell 5:* $L_{pk,flat}$: 202 dB; $L_{,E,HF,24h}$: 155 dB	*Cell 6:* $L_{,E,HF,24h}$: 173 dB.
Phocid Pinnipeds (PW) (Underwater)	*Cell 7:* $L_{pk,flat}$: 218 dB; $L_{,E,PW,24h}$: 185 dB	*Cell 8:* $L_{,E,PW,24h}$: 201 dB.
Otariid Pinnipeds (OW) (Underwater)	*Cell 9:* $L_{pk,flat}$: 232 dB; $L_{,E,OW,24h}$: 203 dB	*Cell 10:* $L_{,E,OW,24h}$: 219 dB.

* Dual metric acoustic thresholds for impulsive sounds: Use whichever results in the largest isopleth for calculating PTS onset. If a non-impulsive sound has the potential of exceeding the peak sound pressure level thresholds associated with impulsive sounds, these thresholds should also be considered.

Note: Peak sound pressure (L_{pk}) has a reference value of 1 μPa, and cumulative sound exposure level (L_E) has a reference value of 1μPa^{2}s. In this Table, thresholds are abbreviated to reflect American National Standards Institute standards (ANSI 2013). However, peak sound pressure is defined by ANSI as incorporating frequency weighting, which is not the intent for this Technical Guidance. Hence, the subscript ''flat'' is being included to indicate peak sound pressure should be flat weighted or unweighted within the generalized hearing range. The subscript associated with cumulative sound exposure level thresholds indicates the designated marine mammal auditory weighting function (LF, MF, and HF cetaceans, and PW and OW pinnipeds) and that the recommended accumulation period is 24 hours. The cumulative sound exposure level thresholds could be exceeded in a multitude of ways (*i.e.,* varying exposure levels and durations, duty cycle). When possible, it is valuable for action proponents to indicate the conditions under which these acoustic thresholds will be exceeded.

Ensonified Area

Here, we describe operational and environmental parameters of the activity and other relevant information that will feed into identifying the area ensonified above the acoustic thresholds.

L–DEO's modeling methodologies are described in greater detail in Appendix A of L–DEO's IHA application. The proposed 2D survey would acquire data using the 36-airgun array with a total discharge volume of 6,600 in^3 at a maximum tow depth of 12 m. L–DEO's modeling approach uses ray tracing for

the direct wave traveling from the array to the receiver and its associated source ghost (reflection at the air-water interface in the vicinity of the array), in a constant-velocity half-space (infinite homogeneous ocean layer, unbounded by a seafloor). To validate the model results, L–DEO measured propagation of pulses from the 36-airgun array at a tow depth of 6 m in the Gulf of Mexico, for deep water (~1,600 m), intermediate water depth on the slope (~600–1,100 m), and shallow water (~50 m) (Tolstoy *et al.,* 2009; Diebold *et al.,* 2010).

L–DEO collected a MCS data set from R/V *Langseth* (array towed at 9 m depth) on an 8-km streamer in 2012 on the shelf of the Cascadia Margin off of Washington in water up to 200 m deep that allowed Crone *et al.* (2014) to analyze the hydrophone streamer data (>1,100 individual shots). These empirical data were then analyzed to determine in situ sound levels for shallow and upper intermediate water depths. These data suggest that modeled radii were 2–3 times larger than the measured radii in shallow water. Similarly, data collected by Crone *et al.* (2017) during a survey off New Jersey in 2014 and 2015 confirmed that in situ measurements collected by the R/V *Langseth* hydrophone streamer were 2–3 times smaller than the predicted radii.

L–DEO model results are used to determine the assumed radial distance to the 160-dB rms threshold for these arrays in deep water (>1,000 m) (down to a maximum water depth of 2,000 m). Water depths in the project area may be up to 2,800 m, but marine mammals in the region are generally not anticipated to dive below 2,000 m (*e.g.,* Costa and Williams, 1999). L–DEO typically derives estimated distances for intermediate water depths by applying a correction factor of 1.5 to the model results for deep water. In this case, the estimated radial distance for intermediate (100–1,000 m) and shallow (<100 m) water depths is taken from Crone *et al.* (2014), as these empirical data were collected in the same region as this proposed survey. A correction factor of 1.15 was applied to account for differences in array tow depth.

The estimated distances to the Level B harassment isopleths for the array are shown in Table 4.

TABLE 4—PREDICTED RADIAL DISTANCES TO ISOPLETHS CORRESPONDING TO LEVEL B HARASSMENT THRESHOLD

Source and volume	Tow depth (m)	Water depth (m)	Level B harassment zone (m)
36 airgun array; 6,600 in^3	12	>1000	[1] 6,733
		100–1000	[2] 9,468
		<100	[2] 12,650

[1] Distance based on L–DEO model results.
[2] Based on empirical data from Crone *et al.* (2014) with scaling.

Predicted distances to Level A harassment isopleths, which vary based on marine mammal hearing groups, were calculated based on modeling performed by L–DEO using the NUCLEUS source modeling software program and the NMFS User Spreadsheet, described below. The acoustic thresholds for impulsive sounds (*e.g.,* airguns) contained in the Technical Guidance were presented as dual metric acoustic thresholds using both SEL_{cum} and peak sound pressure metrics (NMFS 2018). As dual metrics, NMFS considers onset of PTS (Level A harassment) to have occurred when either one of the two metrics is exceeded (*i.e.,* metric resulting in the largest isopleth). The SEL_{cum} metric considers both level and duration of exposure, as well as auditory weighting functions by marine mammal hearing group. In recognition of the fact that the requirement to calculate Level A harassment ensonified areas could be more technically challenging to predict due to the duration component and the use of weighting functions in the new SEL_{cum} thresholds, NMFS developed an optional User Spreadsheet that includes tools to help predict a simple isopleth that can be used in conjunction with marine mammal density or occurrence to facilitate the estimation of take numbers.

The values for SEL_{cum} and peak SPL for the *Langseth* airgun arrays were derived from calculating the modified far-field signature. The farfield signature is often used as a theoretical representation of the source level. To compute the farfield signature, the source level is estimated at a large distance below the array (*e.g.,* 9 km), and this level is back projected mathematically to a notional distance of 1 m from the array's geometrical center. However, when the source is an array of multiple airguns separated in space, the source level from the theoretical farfield signature is not necessarily the best measurement of the source level that is physically achieved at the source (Tolstoy *et al.,* 2009). Near the source (at short ranges, distances <1 km), the pulses of sound pressure from each individual airgun in the source array do not stack constructively, as they do for the theoretical farfield signature. The pulses from the different airguns spread out in time such that the source levels observed or modeled are the result of the summation of pulses from a few airguns, not the full array (Tolstoy *et al.,* 2009). At larger distances, away from the source array center, sound pressure of all the airguns in the array stack coherently, but not within one time sample, resulting in smaller source levels (a few dB) than the source level derived from the farfield signature. Because the farfield signature does not take into account the large array effect near the source and is calculated as a point source, the modified farfield signature is a more appropriate measure of the sound source level for distributed sound sources, such as airgun arrays. L–DEO used the acoustic modeling methodology as used for estimating Level B harassment distances with a small grid step of 1 m in both the inline and depth directions. The propagation modeling takes into account all airgun interactions at short distances from the source, including interactions between subarrays, which are modeled using the NUCLEUS software to estimate the notional signature and MATLAB software to calculate the pressure signal at each mesh point of a grid.

In order to more realistically incorporate the Technical Guidance's weighting functions over the seismic array's full acoustic band, unweighted spectrum data for the *Langseth's* airgun array (modeled in 1 Hz bands) was used to make adjustments (dB) to the unweighted spectrum levels, by frequency, according to the weighting functions for each relevant marine mammal hearing group. These adjusted/weighted spectrum levels were then converted to pressures (μPa) in order to integrate them over the entire

broadband spectrum, resulting in broadband weighted source levels by hearing group that could be directly incorporated within the User Spreadsheet (*i.e.,* to override the Spreadsheet's more simple weighting factor adjustment). Using the User Spreadsheet's ''safe distance'' methodology for mobile sources (described by Sivle *et al.,* 2014) with the hearing group-specific weighted source levels, and inputs assuming spherical spreading propagation and information specific to the planned survey (*i.e.,* the 2.2 m/s source velocity and (worst-case) 23-s shot interval), potential radial distances to auditory injury zones were then calculated for SEL_{cum} thresholds.

Inputs to the User Spreadsheets in the form of estimated source levels are shown in Appendix A of L–DEO's application. User Spreadsheets used by L–DEO to estimate distances to Level A harassment isopleths for the airgun arrays are also provided in Appendix A of the application. Outputs from the User Spreadsheets in the form of estimated distances to Level A harassment isopleths for the survey are shown in Table 5. As described above, NMFS considers onset of PTS (Level A harassment) to have occurred when either one of the dual metrics (SEL_{cum} and Peak SPL_{flat}) is exceeded (*i.e.,* metric resulting in the largest isopleth).

TABLE 5—MODELED RADIAL DISTANCES (m) TO ISOPLETHS CORRESPONDING TO LEVEL A HARASSMENT THRESHOLDS

Source (volume)	Threshold	Level A harassment zone (m)				
		LF cetaceans	MF cetaceans	HF cetaceans	Phocids	Otariids
36-airgun array (6,600 in^3)	SEL_{cum}	320	0	1	10	0
	Peak	39	14	268	44	11

Note that because of some of the assumptions included in the methods used (*e.g.,* stationary receiver with no vertical or horizontal movement in response to the acoustic source), isopleths produced may be overestimates to some degree, which will ultimately result in some degree of overestimation of Level A harassment. However, these tools offer the best way to predict appropriate isopleths when more sophisticated modeling methods are not available, and NMFS continues to develop ways to quantitatively refine these tools and will qualitatively address the output where appropriate. For mobile sources, such as the proposed seismic survey, the User Spreadsheet predicts the closest distance at which a stationary animal would not incur PTS if the sound source traveled by the animal in a straight line at a constant speed.

Auditory injury is unlikely to occur for mid-frequency cetaceans, otariid pinnipeds, and phocid pinnipeds given very small modeled zones of injury for those species (all estimated zones less than 15 m for mid-frequency cetaceans and otariid pinnipeds, up to a maximum of 44 m for phocid pinnipeds), in context of distributed source dynamics. The source level of the array is a theoretical definition assuming a point source and measurement in the far-field of the source (MacGillivray, 2006). As described by Caldwell and Dragoset (2000), an array is not a point source, but one that spans a small area. In the far-field, individual elements in arrays will effectively work as one source because individual pressure peaks will have coalesced into one relatively broad pulse. The array can then be considered a ''point source.'' For distances within the near-field, *i.e.,* approximately 2–3 times the array dimensions, pressure peaks from individual elements do not arrive simultaneously because the observation point is not equidistant from each element. The effect is destructive interference of the outputs of each element, so that peak pressures in the near-field will be significantly lower than the output of the largest individual element. Here, the relevant peak isopleth distances would in all cases be expected to be within the near-field of the array where the definition of source level breaks down. Therefore, actual locations within this distance of the array center where the sound level exceeds the relevant peak SPL thresholds would not necessarily exist. In general, Caldwell and Dragoset (2000) suggest that the near-field for airgun arrays is considered to extend out to approximately 250 m.

In order to provide quantitative support for this theoretical argument, we calculated expected maximum distances at which the near-field would transition to the far-field (Table 5). For a specific array one can estimate the distance at which the near-field transitions to the far-field by:

$$D = \frac{L^2}{4\lambda}$$

with the condition that $D >> \lambda$, and where D is the distance, L is the longest dimension of the array, and λ is the wavelength of the signal (Lurton, 2002). Given that λ can be defined by:

$$\lambda = \frac{v}{f}$$

where f is the frequency of the sound signal and v is the speed of the sound in the medium of interest, one can rewrite the equation for D as:

$$D = \frac{fL^2}{4v}$$

and calculate D directly given a particular frequency and known speed of sound (here assumed to be 1,500 meters per second in water, although this varies with environmental conditions).

To determine the closest distance to the arrays at which the source level predictions in Table 5 are valid (*i.e.,* maximum extent of the near-field), we calculated D based on an assumed frequency of 1 kHz. A frequency of 1 kHz is commonly used in near-field/far-field calculations for airgun arrays (Zykov and Carr, 2014; MacGillivray, 2006; NSF and USGS, 2011), and based on representative airgun spectrum data and field measurements of an airgun array used on the *Langseth,* nearly all (greater than 95 percent) of the energy from airgun arrays is below 1 kHz (Tolstoy *et al.,* 2009). Thus, using 1 kHz as the upper cut-off for calculating the maximum extent of the near-field should reasonably represent the near-field extent in field conditions.

If the largest distance to the peak sound pressure level threshold was equal to or less than the longest dimension of the array (*i.e.,* under the array), or within the near-field, then received levels that meet or exceed the threshold in most cases are not expected to occur. This is because within the near-field and within the dimensions of the array, the source levels specified in Appendix A of L–DEO's application are

overestimated and not applicable. In fact, until one reaches a distance of approximately three or four times the near-field distance the average intensity of sound at any given distance from the array is still less than that based on calculations that assume a directional point source (Lurton, 2002). The 6,600-in^3 airgun array planned for use during the proposed survey has an approximate diagonal of 28.8 m, resulting in a near-field distance of 138.7 m at 1 kHz (NSF and USGS, 2011). Field measurements of this array indicate that the source behaves like multiple discrete sources, rather than a directional point source, beginning at approximately 400 m (deep site) to 1 km (shallow site) from the center of the array (Tolstoy *et al.,* 2009), distances that are actually greater than four times the calculated 140-m near-field distance. Within these distances, the recorded received levels were always lower than would be predicted based on calculations that assume a directional point source, and increasingly so as one moves closer towards the array (Tolstoy *et al.,* 2009). Given this, relying on the calculated distance (138.7 m) as the distance at which we expect to be in the near-field is a conservative approach since even beyond this distance the acoustic modeling still overestimates the actual received level. Within the near-field, in order to explicitly evaluate the likelihood of exceeding any particular acoustic threshold, one would need to consider the exact position of the animal, its relationship to individual array elements, and how the individual acoustic sources propagate and their acoustic fields interact. Given that within the near-field and dimensions of the array source levels would be below those assumed here, we believe exceedance of the peak pressure threshold would only be possible under highly unlikely circumstances.

In consideration of the received sound levels in the near-field as described above, we expect the potential for Level A harassment of mid-frequency cetaceans, otariid pinnipeds, and phocid pinnipeds to be de minimis, even before the likely moderating effects of aversion and/or other compensatory behaviors (*e.g.,* Nachtigall *et al.,* 2018) are considered. We do not believe that Level A harassment is a likely outcome for any mid-frequency cetacean, otariid pinniped, or phocid pinniped and do not propose to authorize any Level A harassment for these species.

Marine Mammal Occurrence

In this section we provide the information about the presence, density, and group dynamics of marine mammals that will inform the take calculations. The Navy's Marine Species Density Database (DoN, 2019, 2021) is currently the most comprehensive compendium for density data available for the Gulf of Alaska (GOA) and is the only source of density data available for southeast Alaska. Habitat-based stratified marine mammal densities developed by the U.S. Navy for assessing potential impacts of training activities in the GOA (DoN, 2021; Rone *et al.,* 2014, 2017) and at Behm Canal in southeast Alaska (DoN, 2019) represent the best available information for estimating potential marine mammal exposures. The Navy's GOA Temporary Marine Activities Area (TMAA) is situated south of Prince William Sound and east of Kodiak Island. The northern boundary of the TMAA is approximately 24 nautical miles south of the Kenai Peninsula. Behm Canal is approximately 45 km east of Ketchikan, AK, inshore of the proposed survey area in the same general part of southeast Alaska. In general, GOA density values were used for offshore (deep water depths) portions of the survey area, and Behm Canal density values were used for inshore (shallow and intermediate water depths) portions. For some species, no Behm Canal density information is available, and the GOA density value was applied to all water depths. Density values are provided in Table 6 and discussed in greater detail below.

TABLE 6—ESTIMATED DENSITY VALUES BY WATER DEPTH

[#/km^2]

Species	Shallow depth (<100 m) [1]	Intermediate depth (100–1,000 m) [1]	Deep depth (>1,000 m) [1]
Gray whale [4]	0.0486	0.0486	0
Humpback whale	[3] 0.0117	[3] 0.0117	[4] 0.0010
Blue whale [4]	0.0001	0.0001	0.0005
Fin whale	[3] 0.0001	[3] 0.0001	[4] 0.0160
Sei whale [4]	0.0004	0.0004	0.0004
Minke whale	[3] 0.0008	[3] 0.0008	[4] 0.0006
Sperm whale [4]	0	0.0020	0.0013
Baird's beaked whale [4]	0	0	0.0005
Stejneger's beaked whale [4]	0	0	0.0021
Cuvier's beaked whale [4]	0	0	0.0020
Pacific white-sided dolphin	[3] 0.0075	[3] 0.0075	[4] 0.0200
Northern right whale dolphin [5]	0.0110	0.0276	0.0367
Risso's dolphin [2]	0.0000	0.0000	0.0000
Killer whale	[3] 0.0057	[3] 0.0057	[4] 0.0020
Dall's porpoise	[3] 0.1210	[3] 0.1210	[4] 0.0370
Harbor porpoise [6]	0.0330	0.0330	0
Northern fur seal [4]	0.0661	0.0661	0.0661
California sea lion [3]	0.0288	0.0288	0.0065
Steller sea lion	[3] 0.3162	[4] 0.0570	0
Northern elephant seal [4]	0.0779	0.0779	0.0779
Harbor seal	[3] 0.7811	[4] 0.1407	0

[1] A zero value indicates the species is not expected to occur in that depth stratum.
[2] Nominal density value of 0.00001 applied to Risso's dolphin.
[3] Source: DoN, 2019; [4] Source DoN, 2021; [5] Source: Becker *et al.* (2016); [6] Hobbs and Waite (2010).

The Navy conducted comprehensive marine mammal surveys in theTMAA in 2009 and 2013. Additional survey effort was conducted in 2015. These surveys used systematic line-transect survey protocols including visual and acoustic detection methods (Rone *et al.,* 2010, 2014, 2017). The data were collected in four strata that were designed to encompass the four distinct habitats within the TMAA and greater GOA: Inshore: All waters <1,000 m deep; Slope: From 1,000 m water depth to the Aleutian trench/subduction zone; Offshore: Waters offshore of the Aleutian trench/subduction zone; Seamount: Waters within defined seamount areas. Density values for the slope and seamount regions of the TMAA are not relevant for the survey area considered herein. There were insufficient sightings data from the 2009, 2013, and 2015 line-transect surveys to calculate reliable density estimates for certain cetacean species in the GOA. In these cases, other available information supported development of density estimates. Additional sources of information include summer 2003 cetacean surveys near the Kenai Peninsula, within Prince William Sound and around Kodiak Island (Waite, 2003 in DoN, 2021), summer 2010–2012 line-transect data collected over a broad area north of 40° N, south of the Aleutian Islands, and between 170° E and 135° W during the International Whaling Commission-Pacific Ocean Whale and Ecosystem Research cruises (Hakamada *et al.,* 2017), and analysis of acoustic data from the 2013 Navy-funded survey effort in the TMAA (Yack *et al.,* 2015). See DoN (2021) for additional detail. When seasonal densities were available, the calculated exposures were based on summer densities, which are most representative of the proposed survey timing.

Pinniped numbers are commonly assessed by counting individuals at haul-outs or the number of pups weaned at rookeries. Translating these numbers to in-water densities presents challenges unique to pinnipeds. No in-water line transect survey data were available for harbor seal, Steller sea lion, or California sea lion in the GOA. Surveys conducted by Rone *et al.* (2014) recorded sightings of northern elephant seal and northern fur seal in the TMAA; however, these data were insufficient to estimate a density for northern elephant seal, and were not used for northern fur seal due to the availability of more recent data. To account for the lack of in-water survey data for pinnipeds, published abundance estimates used in the density calculations were adjusted using a species-specific haul-out factor to estimate an in-water abundance for each species based on haul-out behavior. The calculated in-water abundance and an area of distribution specific to each species was used to estimate a density. See DoN (2021) for additional information. For pinnipeds, where monthly density estimates were available, the highest value from July or August was applied as most representative of the proposed survey timing.

Due to a lack of sighting data specific to the Behm Canal area, the Navy derived density estimates based on data collected from various surveys (cetaceans) and shore counts (pinnipeds) conducted within southeast Alaska and GOA. Pinniped density estimates for the Behm Canal region were additionally derived from publications, NMFS SARs, and consultation with subject matter experts (DoN, 2019). Systematic ship surveys conducted in southeast Alaska waters from 1991 to 2012 provided data to develop stratified line-transect density estimates for harbor porpoise and Dall's porpoise in regions overlapping a portion of the Behm Canal area (Dahlheim *et al.,* 2015). Density information for the Behm Canal area is available for the following species: Minke whale, fin whale, humpback whale, Pacific white-sided dolphin, killer whale, harbor porpoise, Dall's porpoise, and for all potentially affected pinniped species.

The general approach for cetaceans of applying Behm Canal density estimates to survey effort in shallow and intermediate depth strata and GOA offshore density estimates to the deep depth stratum was applied for species for which appropriate estimates were available: Humpback whale, fin whale, minke whale, Pacific white-sided dolphin, killer whale, and Dall's porpoise. Note that, for killer whales, Behm Canal densities are provided specific to transient and resident whales. We apply the higher transient killer whale density value to estimate killer whale exposures in shallow and intermediate water depths. Behm Canal pinniped densities would be expected to overestimate pinniped occurrence off the coast, and so were not used for intermediate-depth waters, but were applied to shallow waters where available.

Certain species are not expected to occur in Behm Canal: Gray whale, blue whale, sei whale, sperm whale, beaked whales, northern fur seal, and northern elephant seal. For these species, we applied appropriate GOA density values to all depth strata (*i.e.,* inshore GOA values to shallow and intermediate water depths and offshore GOA density values to deep water depths). Note that, while DoN (2021) provides an inshore density estimate for sperm whales, that stratum corresponds to water depths <1,000 m. We assume here that sperm whales do not occur in shallow water depths (<100 m).

Gray whale densities are provided for two zones, nearshore (0–2.25 nmi from shore) and offshore (from 2.25–20 nmi from shore), based on density information in Carretta *et al.* (2000) and zones based on data from Shelden and Laake (2002). DoN (2021) assumes that gray whales do not occur in the region >20 nmi from shore. The nearshore density is used here to represent shallow and intermediate water (<1,000 m deep). This approach assumes a higher density of gray whales across a larger area and is used as a precautionary approach.

Harbor porpoise densities in DoN (2021) were derived from survey data collected in summer 1997 in southeast Alaska and 1998 in the Gulf of Alaska and included correction factors for both perception and availability bias (Hobbs and Waite, 2010). L–DEO proposed to use density information from Hobbs and Waite (2010) specific to southeast Alaska, which better represents the survey area than the GOA information presented for harbor porpoise in DoN (2021). Following DoN (2021), we assume harbor porpoise will not occur in deep water (>1,000 m).

No regional density information is available for the northern right whale dolphin. Becker *et al.* (2016) used line-transect survey data collected between 1991 and 2009 to develop predictive habitat-based models of cetacean densities in the California Current Ecosystem (the region from Baja California to southern British Columbia). The modeled density estimates were available on the scale of 7 km by 10 km grid cells off California, Oregon, and Washington, and values were averaged for grid cells across Washington and Oregon corresponding with L–DEO's shallow, intermediate, and deep water survey strata. These density values were applied to the portion of the survey area off Canada to calculate estimated exposures, as northern right whale dolphins do not typically occur beyond the California Current. The Risso's dolphin is only rarely observed in or near the Navy's GOA survey area, and does not occur in Behm Canal, so minimal densities were used to represent their potential presence (DoN, 2021). For California sea lion, density data is available in DoN (2021); however, it is likely that these

values would underestimate presence of California sea lions in the proposed survey area. Therefore, information available in DoN (2019) for the Offshore Northwest Training and Testing (NWTT) Area (off Washington/Oregon) in the month of August was used; densities for 0–40 km from shore were applied to shallow and intermediate water depths, and the density for 0–450 km from shore was used for deep water. The density for 40–70 km from shore was the lowest and was therefore not used.

In British Columbia, several systematic surveys have been conducted in coastal waters (*e.g.,* Williams and Thomas 2007; Ford *et al.,* 2010; Best *et al.,* 2015; Harvey *et al.,* 2017). Surveys in coastal as well as offshore waters were conducted by Fisheries and Oceans Canada (DFO) during 2002 to 2008. However, density estimates for the survey areas outside the U.S. EEZ, *i.e.,* in the Canadian EEZ, were not readily available, so density estimates for U.S. waters were applied to the entire survey area.

Take Calculation and Estimation

Here we describe how the information provided above is brought together to produce a quantitative take estimate. In order to estimate the number of marine mammals predicted to be exposed to sound levels that would result in Level A or Level B harassment, radial distances from the airgun array to predicted isopleths corresponding to the Level A harassment and Level B harassment thresholds are calculated, as described above. Those radial distances are then used to calculate the area(s) around the airgun array predicted to be ensonified to sound levels that exceed the Level A and Level B harassment thresholds. The distance for the 160-dB threshold (based on L–DEO model results) was used to draw a buffer around every transect line in GIS to determine the total ensonified area in each depth category. Estimated incidents of exposure above Level A and Level B harassment criteria are presented in Table 7. For additional details regarding calculations of ensonified area, please see Appendix D of L–DEO's application. As noted previously, L–DEO has added 25 percent in the form of operational days, which is equivalent to adding 25 percent to the proposed line-kms to be surveyed. This accounts for the possibility that additional operational days are required, but likely results in an overestimate of actual exposures.

As previously noted, NMFS cannot authorize incidental take under the MMPA that may occur within the territorial seas of foreign nations (from 0–12 nmi (22.2 km) from shore), as the MMPA does not apply in those waters. However, NMFS has still calculated the estimated level of incidental take in the entire activity area (including Canadian territorial waters) as part of the analysis supporting our determination under the MMPA that the activity will have a negligible impact on the affected species. The total estimated take in U.S. and Canadian waters is presented in Table 8 (see Negligible Impact Analysis and Determination).

The estimated marine mammal exposures above harassment thresholds are generally assumed here to equate to take, and the estimates form the basis for our proposed take authorization numbers. For the species for which NMFS does not expect there to be a reasonable potential for take by Level A harassment to occur, *i.e.,* mid-frequency cetaceans and all pinnipeds, the estimated exposures above Level A harassment thresholds have been added to the estimated exposures above the Level B harassment threshold to produce a total number of incidents of take by Level B harassment that is proposed for authorization. Estimated exposures and proposed take numbers for authorization are shown in Table 7. Regarding humpback whale take numbers, we assume that whales encountered will follow Wade (2017), *i.e.,* that 96.1 percent of takes would accrue to the Hawaii DPS and 3.8 percent to the Mexico DPS. Of the estimated take of gray whales, and based on guidance provided through interagency consultation under section 7 of the ESA, we assume that 0.1 percent of encountered whales would be from the WNP stock and propose to authorize take accordingly. For Steller sea lions, 2.2 percent are assumed to belong to the western DPS (Hastings *et al.,* 2020).

TABLE 7—ESTIMATED TAKING BY LEVEL A AND LEVEL B HARASSMENT, AND PERCENTAGE OF POPULATION

Species	Stock [1]	Estimated Level B harassment	Estimated Level A harassment	Proposed Level B harassment	Proposed Level A harassment	Total take	Percent of stock [1]
Gray whale	WNP	1,450	45	2	0	2	0.7
	ENP			1,448	45	1,493	5.5
Humpback whale		403	14	403	14	417	4.1
Blue whale		31	1	31	1	32	2.1
Fin whale [2]		873	44	873	44	917	n/a
Sei whale		34	1	34	1	35	6.7
Minke whale [2]		57	2	57	2	59	n/a
Sperm whale [2]		131	0	131	0	131	n/a
Baird's beaked whale [2]		29	0	29	0	29	n/a
Stejneger's beaked whale [2]		120	0	120	0	120	n/a
Cuvier's beaked whale [2]		114	0	114	0	114	n/a
Pacific white-sided dolphin		1,371	3	1,374	0	1,374	5.1
Northern right whale dolphin		922	5	927	0	927	3.5
Risso's dolphin [3]		1	0	22	0	22	0.3
Killer whale	Offshore	290	0	290	0	290	96.7
	GOA/BSAI Transient						49.4
	WC Transient						83.1
	AK Resident						12.4
	Northern Resident						96.0
Dall's porpoise		5,661	178	5,661	178	5,839	7.0
Harbor porpoise		990	26	990	26	1,016	n/a
Northern fur seal		5,804	8	5,812	0	5,812	1.0
California sea lion		1,256	1	1,258	0	1,258	0.5
Steller sea lion	WDPS	2,433	2	54	0	54	0.1
	EDPS			2,381	0	2,381	5.5
Northern elephant seal		6,811	39	6,850	0	6,850	3.8
Harbor seal	Sitka/Chatham Strait	5,992	21	6,012	0	6,012	45.2
	Dixon/Cape Decision						25.6

TABLE 7—ESTIMATED TAKING BY LEVEL A AND LEVEL B HARASSMENT, AND PERCENTAGE OF POPULATION—Continued

Species	Stock [1]	Estimated Level B harassment	Estimated Level A harassment	Proposed Level B harassment	Proposed Level A harassment	Total take	Percent of stock [1]
	Clarence Strait						21.7

[1] In most cases, where multiple stocks are being affected, for the purposes of calculating the percentage of the stock impacted, the take is being analyzed as if all proposed takes occurred within each stock. Where necessary, additional discussion is provided in the Small Numbers section.
[2] As noted in Table 1, there is no estimate of abundance available for these species.
[3] Estimated exposure of one Risso's dolphin increased to group size of 22 (Barlow, 2016).

Proposed Mitigation

In order to issue an IHA under Section 101(a)(5)(D) of the MMPA, NMFS must set forth the permissible methods of taking pursuant to the activity, and other means of effecting the least practicable impact on the species or stock and its habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance, and on the availability of the species or stock for taking for certain subsistence uses (latter not applicable for this action). NMFS regulations require applicants for incidental take authorizations to include information about the availability and feasibility (economic and technological) of equipment, methods, and manner of conducting the activity or other means of effecting the least practicable adverse impact upon the affected species or stocks and their habitat (50 CFR 216.104(a)(11)).

In evaluating how mitigation may or may not be appropriate to ensure the least practicable adverse impact on species or stocks and their habitat, as well as subsistence uses where applicable, we carefully consider two primary factors:

(1) The manner in which, and the degree to which, the successful implementation of the measure(s) is expected to reduce impacts to marine mammals, marine mammal species or stocks, and their habitat. This considers the nature of the potential adverse impact being mitigated (likelihood, scope, range). It further considers the likelihood that the measure will be effective if implemented (probability of accomplishing the mitigating result if implemented as planned), the likelihood of effective implementation (probability implemented as planned); and

(2) The practicability of the measures for applicant implementation, which may consider such things as cost, impact on operations, and, in the case of a military readiness activity, personnel safety, practicality of implementation, and impact on the effectiveness of the military readiness activity.

In order to satisfy the MMPA's least practicable adverse impact standard, NMFS has evaluated a suite of basic mitigation protocols for seismic surveys that are required regardless of the status of a stock. Additional or enhanced protections may be required for species whose stocks are in particularly poor health and/or are subject to some significant additional stressor that lessens that stock's ability to weather the effects of the specified activities without worsening its status. We reviewed seismic mitigation protocols required or recommended elsewhere (*e.g.,* HESS, 1999; DOC, 2013; IBAMA, 2018; Kyhn *et al.,* 2011; JNCC, 2017; DEWHA, 2008; BOEM, 2016; DFO, 2008; GHFS, 2015; MMOA, 2016; Nowacek *et al.,* 2013; Nowacek and Southall, 2016), recommendations received during public comment periods for previous actions, and the available scientific literature. We also considered recommendations given in a number of review articles (*e.g.,* Weir and Dolman, 2007; Compton *et al.,* 2008; Parsons *et al.,* 2009; Wright and Cosentino, 2015; Stone, 2015b). This exhaustive review and consideration of public comments regarding previous, similar activities has led to development of the protocols included here.

Vessel-Based Visual Mitigation Monitoring

Visual monitoring requires the use of trained observers (herein referred to as visual protected species observers (PSOs)) to scan the ocean surface for the presence of marine mammals. The area to be scanned visually includes primarily the exclusion zone (EZ), within which observation of certain marine mammals requires shutdown of the acoustic source, but also a buffer zone and, to the extent possible depending on conditions, the surrounding waters. The buffer zone means an area beyond the EZ to be monitored for the presence of marine mammals that may enter the EZ. During pre-start clearance monitoring (*i.e.,* before ramp-up begins), the buffer zone also acts as an extension of the EZ in that observations of marine mammals within the buffer zone would also prevent airgun operations from beginning (*i.e.,* ramp-up). The buffer zone encompasses the area at and below the sea surface from the edge of the 0–500 m EZ, out to a radius of 1,000 m from the edges of the airgun array (500–1,000 m). This 1,000-m zone (EZ plus buffer) represents the pre-start clearance zone. Visual monitoring of the EZ and adjacent waters is intended to establish and, when visual conditions allow, maintain zones around the sound source that are clear of marine mammals, thereby reducing or eliminating the potential for injury and minimizing the potential for more severe behavioral reactions for animals occurring closer to the vessel. Visual monitoring of the buffer zone is intended to (1) provide additional protection to naïve marine mammals that may be in the area during pre-start clearance, and (2) during airgun use, aid in establishing and maintaining the EZ by alerting the visual observer and crew of marine mammals that are outside of, but may approach and enter, the EZ.

L–DEO must use dedicated, trained, NMFS-approved PSOs. The PSOs must have no tasks other than to conduct observational effort, record observational data, and communicate with and instruct relevant vessel crew with regard to the presence of marine mammals and mitigation requirements. PSO resumes shall be provided to NMFS for approval.

At least one of the visual and two of the acoustic PSOs (discussed below) aboard the vessel must have a minimum of 90 days at-sea experience working in those roles, respectively, with no more than 18 months elapsed since the conclusion of the at-sea experience. One visual PSO with such experience shall be designated as the lead for the entire protected species observation team. The lead PSO shall serve as primary point of contact for the vessel operator and ensure all PSO requirements per the IHA are met. To the maximum extent practicable, the experienced PSOs should be scheduled to be on duty with those PSOs with appropriate training but who have not yet gained relevant experience.

During survey operations (*e.g.,* any day on which use of the acoustic source is planned to occur, and whenever the

acoustic source is in the water, whether activated or not), a minimum of two visual PSOs must be on duty and conducting visual observations at all times during daylight hours (*i.e.,* from 30 minutes prior to sunrise through 30 minutes following sunset). Visual monitoring of the pre-start clearance zone must begin no less than 30 minutes prior to ramp-up, and monitoring must continue until one hour after use of the acoustic source ceases or until 30 minutes past sunset. Visual PSOs shall coordinate to ensure 360° visual coverage around the vessel from the most appropriate observation posts, and shall conduct visual observations using binoculars and the naked eye while free from distractions and in a consistent, systematic, and diligent manner.

PSOs shall establish and monitor the exclusion and buffer zones. These zones shall be based upon the radial distance from the edges of the acoustic source (rather than being based on the center of the array or around the vessel itself). During use of the acoustic source (*i.e.,* anytime airguns are active, including ramp-up), detections of marine mammals within the buffer zone (but outside the EZ) shall be communicated to the operator to prepare for the potential shutdown of the acoustic source. Visual PSOs will immediately communicate all observations to the on duty acoustic PSO(s), including any determination by the PSO regarding species identification, distance, and bearing and the degree of confidence in the determination. Any observations of marine mammals by crew members shall be relayed to the PSO team. During good conditions (*e.g.,* daylight hours; Beaufort sea state (BSS) 3 or less), visual PSOs shall conduct observations when the acoustic source is not operating for comparison of sighting rates and behavior with and without use of the acoustic source and between acquisition periods, to the maximum extent practicable.

Visual PSOs may be on watch for a maximum of 4 consecutive hours followed by a break of at least one hour between watches and may conduct a maximum of 12 hours of observation per 24-hour period. Combined observational duties (visual and acoustic but not at same time) may not exceed 12 hours per 24-hour period for any individual PSO.

Passive Acoustic Monitoring

Acoustic monitoring means the use of trained personnel (sometimes referred to as passive acoustic monitoring (PAM) operators, herein referred to as acoustic PSOs) to operate PAM equipment to acoustically detect the presence of marine mammals. Acoustic monitoring involves acoustically detecting marine mammals regardless of distance from the source, as localization of animals may not always be possible. Acoustic monitoring is intended to further support visual monitoring (during daylight hours) in maintaining an EZ around the sound source that is clear of marine mammals. In cases where visual monitoring is not effective (*e.g.,* due to weather, nighttime), acoustic monitoring may be used to allow certain activities to occur, as further detailed below.

PAM would take place in addition to the visual monitoring program. Visual monitoring typically is not effective during periods of poor visibility or at night, and even with good visibility, is unable to detect marine mammals when they are below the surface or beyond visual range. Acoustic monitoring can be used in addition to visual observations to improve detection, identification, and localization of cetaceans. The acoustic monitoring would serve to alert visual PSOs (if on duty) when vocalizing cetaceans are detected. It is only useful when marine mammals vocalize, but it can be effective either by day or by night, and does not depend on good visibility. It would be monitored in real time so that the visual observers can be advised when cetaceans are detected.

The R/V *Langseth* will use a towed PAM system, which must be monitored by at a minimum one on duty acoustic PSO beginning at least 30 minutes prior to ramp-up and at all times during use of the acoustic source. Acoustic PSOs may be on watch for a maximum of 4 consecutive hours followed by a break of at least one hour between watches and may conduct a maximum of 12 hours of observation per 24-hour period. Combined observational duties (acoustic and visual but not at same time) may not exceed 12 hours per 24-hour period for any individual PSO.

Survey activity may continue for 30 minutes when the PAM system malfunctions or is damaged, while the PAM operator diagnoses the issue. If the diagnosis indicates that the PAM system must be repaired to solve the problem, operations may continue for an additional 5 hours without acoustic monitoring during daylight hours only under the following conditions:

- Sea state is less than or equal to BSS 4;
- No marine mammals (excluding delphinids) detected solely by PAM in the applicable EZ in the previous 2 hours;
- NMFS is notified via email as soon as practicable with the time and location in which operations began occurring without an active PAM system; and
- Operations with an active acoustic source, but without an operating PAM system, do not exceed a cumulative total of 5 hours in any 24-hour period.

Establishment of Exclusion and Pre-Start Clearance Zones

An EZ is a defined area within which occurrence of a marine mammal triggers mitigation action intended to reduce the potential for certain outcomes, *e.g.,* auditory injury, disruption of critical behaviors. The PSOs would establish a minimum EZ with a 500-m radius. The 500-m EZ would be based on radial distance from the edge of the airgun array (rather than being based on the center of the array or around the vessel itself). With certain exceptions (described below), if a marine mammal appears within or enters this zone, the acoustic source would be shut down.

The pre-start clearance zone is defined as the area that must be clear of marine mammals prior to beginning ramp-up of the acoustic source, and includes the EZ plus the buffer zone. Detections of marine mammals within the pre-start clearance zone would prevent airgun operations from beginning (*i.e.,* ramp-up).

The 500-m EZ is intended to be precautionary in the sense that it would be expected to contain sound exceeding the injury criteria for all cetacean hearing groups, (based on the dual criteria of SEL_{cum} and peak SPL), while also providing a consistent, reasonably observable zone within which PSOs would typically be able to conduct effective observational effort. Additionally, a 500-m EZ is expected to minimize the likelihood that marine mammals will be exposed to levels likely to result in more severe behavioral responses. Although significantly greater distances may be observed from an elevated platform under good conditions, we believe that 500 m is likely regularly attainable for PSOs using the naked eye during typical conditions. The pre-start clearance zone simply represents the addition of a buffer to the EZ, doubling the EZ size during pre-clearance.

An extended EZ of 1,500 m must be enforced for all beaked whales. No buffer of this extended EZ is required.

Pre-Start Clearance and Ramp-Up

Ramp-up (sometimes referred to as ''soft start'') means the gradual and systematic increase of emitted sound levels from an airgun array. Ramp-up begins by first activating a single airgun of the smallest volume, followed by doubling the number of active elements

in stages until the full complement of an array's airguns are active. Each stage should be approximately the same duration, and the total duration should not be less than approximately 20 minutes. The intent of pre-start clearance observation (30 minutes) is to ensure no protected species are observed within the pre-clearance zone (or extended EZ, for beaked whales) prior to the beginning of ramp-up. During pre-start clearance period is the only time observations of marine mammals in the buffer zone would prevent operations (*i.e.,* the beginning of ramp-up). The intent of ramp-up is to warn marine mammals of pending seismic operations and to allow sufficient time for those animals to leave the immediate vicinity. A ramp-up procedure, involving a step-wise increase in the number of airguns firing and total array volume until all operational airguns are activated and the full volume is achieved, is required at all times as part of the activation of the acoustic source. All operators must adhere to the following pre-start clearance and ramp-up requirements:

- The operator must notify a designated PSO of the planned start of ramp-up as agreed upon with the lead PSO; the notification time should not be less than 60 minutes prior to the planned ramp-up in order to allow the PSOs time to monitor the pre-start clearance zone (and extended EZ) for 30 minutes prior to the initiation of ramp-up (pre-start clearance);
- Ramp-ups shall be scheduled so as to minimize the time spent with the source activated prior to reaching the designated run-in;
- One of the PSOs conducting pre-start clearance observations must be notified again immediately prior to initiating ramp-up procedures and the operator must receive confirmation from the PSO to proceed;
- Ramp-up may not be initiated if any marine mammal is within the applicable exclusion or buffer zone. If a marine mammal is observed within the pre-start clearance zone (or extended EZ, for beaked whales) during the 30 minute pre-start clearance period, ramp-up may not begin until the animal(s) has been observed exiting the zones or until an additional time period has elapsed with no further sightings (15 minutes for small odontocetes and pinnipeds, and 30 minutes for all mysticetes and all other odontocetes, including sperm whales, beaked whales, and large delphinids, such as killer whales);
- Ramp-up shall begin by activating a single airgun of the smallest volume in the array and shall continue in stages by doubling the number of active elements at the commencement of each stage, with each stage of approximately the same duration. Duration shall not be less than 20 minutes. The operator must provide information to the PSO documenting that appropriate procedures were followed;
- PSOs must monitor the pre-start clearance zone (and extended EZ) during ramp-up, and ramp-up must cease and the source must be shut down upon detection of a marine mammal within the applicable zone. Once ramp-up has begun, detections of marine mammals within the buffer zone do not require shutdown, but such observation shall be communicated to the operator to prepare for the potential shutdown;
- Ramp-up may occur at times of poor visibility, including nighttime, if appropriate acoustic monitoring has occurred with no detections in the 30 minutes prior to beginning ramp-up. Acoustic source activation may only occur at times of poor visibility where operational planning cannot reasonably avoid such circumstances;
- If the acoustic source is shut down for brief periods (*i.e.,* less than 30 minutes) for reasons other than that described for shutdown (*e.g.,* mechanical difficulty), it may be activated again without ramp-up if PSOs have maintained constant visual and/or acoustic observation and no visual or acoustic detections of marine mammals have occurred within the applicable EZ. For any longer shutdown, pre-start clearance observation and ramp-up are required. For any shutdown at night or in periods of poor visibility (*e.g.,* BSS 4 or greater), ramp-up is required, but if the shutdown period was brief and constant observation was maintained, pre-start clearance watch of 30 minutes is not required; and
- Testing of the acoustic source involving all elements requires ramp-up. Testing limited to individual source elements or strings does not require ramp-up but does require pre-start clearance of 30 min.

Shutdown

The shutdown of an airgun array requires the immediate de-activation of all individual airgun elements of the array. Any PSO on duty will have the authority to delay the start of survey operations or to call for shutdown of the acoustic source if a marine mammal is detected within the applicable EZ. The operator must also establish and maintain clear lines of communication directly between PSOs on duty and crew controlling the acoustic source to ensure that shutdown commands are conveyed swiftly while allowing PSOs to maintain watch. When both visual and acoustic PSOs are on duty, all detections will be immediately communicated to the remainder of the on-duty PSO team for potential verification of visual observations by the acoustic PSO or of acoustic detections by visual PSOs. When the airgun array is active (*i.e.,* anytime one or more airguns is active, including during ramp-up) and (1) a marine mammal appears within or enters the applicable EZ and/or (2) a marine mammal (other than delphinids, see below) is detected acoustically and localized within the applicable EZ, the acoustic source will be shut down. When shutdown is called for by a PSO, the acoustic source will be immediately deactivated and any dispute resolved only following deactivation. Additionally, shutdown will occur whenever PAM alone (without visual sighting), confirms presence of marine mammal(s) in the EZ. If the acoustic PSO cannot confirm presence within the EZ, visual PSOs will be notified but shutdown is not required.

Following a shutdown, airgun activity would not resume until the marine mammal has cleared the EZ. The animal would be considered to have cleared the EZ if it is visually observed to have departed the EZ (*i.e.,* animal is not required to fully exit the buffer zone where applicable), or it has not been seen within the EZ for 15 minutes for small odontocetes and pinnipeds, or 30 minutes for all mysticetes and all other odontocetes, including sperm whales, beaked whales, and large delphinids, such as killer whales.

The shutdown requirement can be waived for small dolphins if an individual is detected within the EZ. As defined here, the small dolphin group is intended to encompass those members of the Family Delphinidae most likely to voluntarily approach the source vessel for purposes of interacting with the vessel and/or airgun array (*e.g.,* bow riding). This exception to the shutdown requirement applies solely to specific genera of small dolphins (*Lagenorhynchus* and *Lissodelphis*).

We include this small dolphin exception because shutdown requirements for small dolphins under all circumstances represent practicability concerns without likely commensurate benefits for the animals in question. Small dolphins are generally the most commonly observed marine mammals in the specific geographic region and would typically be the only marine mammals likely to intentionally approach the vessel. As described above, auditory injury is extremely unlikely to occur for mid-frequency cetaceans (*e.g.,* delphinids),

as this group is relatively insensitive to sound produced at the predominant frequencies in an airgun pulse while also having a relatively high threshold for the onset of auditory injury (*i.e.,* permanent threshold shift).

A large body of anecdotal evidence indicates that small dolphins commonly approach vessels and/or towed arrays during active sound production for purposes of bow riding, with no apparent effect observed in those delphinoids (*e.g.,* Barkaszi *et al.,* 2012, 2018). The potential for increased shutdowns resulting from such a measure would require the *Langseth* to revisit the missed track line to reacquire data, resulting in an overall increase in the total sound energy input to the marine environment and an increase in the total duration over which the survey is active in a given area. Although other mid-frequency hearing specialists (*e.g.,* large delphinids) are no more likely to incur auditory injury than are small dolphins, they are much less likely to approach vessels. Therefore, retaining a shutdown requirement for large delphinids would not have similar impacts in terms of either practicability for the applicant or corollary increase in sound energy output and time on the water. We do anticipate some benefit for a shutdown requirement for large delphinids in that it simplifies somewhat the total range of decision-making for PSOs and may preclude any potential for physiological effects other than to the auditory system as well as some more severe behavioral reactions for any such animals in close proximity to the source vessel.

Visual PSOs shall use best professional judgment in making the decision to call for a shutdown if there is uncertainty regarding identification (*i.e.,* whether the observed marine mammal(s) belongs to one of the delphinid genera for which shutdown is waived or one of the species with a larger EZ).

L–DEO must implement shutdown if a marine mammal species for which take was not authorized, or a species for which authorization was granted but the takes have been met, approaches the Level A or Level B harassment zones. L–DEO must also implement shutdown if any of the following are observed at any distance:

- Any large whale (defined as a sperm whale or any mysticete species) with a calf (defined as an animal less than two-thirds the body size of an adult observed to be in close association with an adult);
- An aggregation of six or more large whales; and/or
- A North Pacific right whale.

Vessel Strike Avoidance

1. Vessel operators and crews must maintain a vigilant watch for all protected species and slow down, stop their vessel, or alter course, as appropriate and regardless of vessel size, to avoid striking any marine mammal. A visual observer aboard the vessel must monitor a vessel strike avoidance zone around the vessel (distances stated below). Visual observers monitoring the vessel strike avoidance zone may be third-party observers (*i.e.,* PSOs) or crew members, but crew members responsible for these duties must be provided sufficient training to 1) distinguish marine mammals from other phenomena and 2) broadly to identify a marine mammal as a right whale, other whale (defined in this context as sperm whales or baleen whales other than right whales), or other marine mammal.

2. Vessel speeds must also be reduced to 10 kn or less when mother/calf pairs, pods, or large assemblages of cetaceans are observed near a vessel.

3. All vessels must maintain a minimum separation distance of 500 m from right whales. If a whale is observed but cannot be confirmed as a species other than a right whale, the vessel operator must assume that it is a right whale and take appropriate action.

4. All vessels must maintain a minimum separation distance of 100 m from sperm whales and all other baleen whales.

5. All vessels must, to the maximum extent practicable, attempt to maintain a minimum separation distance of 50 m from all other marine mammals, with an understanding that at times this may not be possible (*e.g.,* for animals that approach the vessel).

6. When marine mammals are sighted while a vessel is underway, the vessel shall take action as necessary to avoid violating the relevant separation distance (*e.g.,* attempt to remain parallel to the animal's course, avoid excessive speed or abrupt changes in direction until the animal has left the area). If marine mammals are sighted within the relevant separation distance, the vessel must reduce speed and shift the engine to neutral, not engaging the engines until animals are clear of the area. This does not apply to any vessel towing gear or any vessel that is navigationally constrained.

7. These requirements do not apply in any case where compliance would create an imminent and serious threat to a person or vessel or to the extent that a vessel is restricted in its ability to maneuver and, because of the restriction, cannot comply.

We have carefully evaluated the suite of mitigation measures described here and considered a range of other measures in the context of ensuring that we prescribe the means of effecting the least practicable adverse impact on the affected marine mammal species and stocks and their habitat. Based on our evaluation of the proposed measures, as well as other measures considered by NMFS described above, NMFS has preliminarily determined that the mitigation measures provide the means of effecting the least practicable impact on the affected species or stocks and their habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance.

Mitigation Measures in Canadian Waters

As stated previously, NMFS cannot authorize the incidental take of marine mammals in the territorial seas of foreign nations, as the MMPA does not apply in those waters. L–DEO is required to adhere to the mitigation measures described above while operating within the U.S. EEZ and Canadian EEZ. The requirements do not apply within Canadian territorial waters. NMFS expects that DFO may prescribe mitigation measures that would apply to L–DEO's survey operations within the Canadian EEZ and Canadian territorial waters but is currently unaware of the specifics of any potential measures. While operating within the Canadian EEZ but outside Canadian territorial waters, if mitigation requirements prescribed by NMFS differ from the requirements established under Canadian law, L–DEO would adhere to the most protective measure. For operations in Canadian territorial waters, L–DEO would implement measures required under Canadian law (if any). If information regarding measures required under Canadian law becomes available prior to NMFS' final decision on this request for IHA, NMFS will consider it as appropriate in making its negligible impact determination.

Proposed Monitoring and Reporting

In order to issue an IHA for an activity, Section 101(a)(5)(D) of the MMPA states that NMFS must set forth requirements pertaining to the monitoring and reporting of such taking. The MMPA implementing regulations at 50 CFR 216.104 (a)(13) indicate that requests for authorizations must include the suggested means of accomplishing the necessary monitoring and reporting that will result in increased knowledge of the species and of the level of taking or impacts on populations of marine

mammals that are expected to be present in the proposed action area. Effective reporting is critical both to compliance as well as ensuring that the most value is obtained from the required monitoring.

Monitoring and reporting requirements prescribed by NMFS should contribute to improved understanding of one or more of the following:

- Occurrence of marine mammal species or stocks in the area in which take is anticipated (*e.g.,* presence, abundance, distribution, density);
- Nature, scope, or context of likely marine mammal exposure to potential stressors/impacts (individual or cumulative, acute or chronic), through better understanding of: (1) Action or environment (*e.g.,* source characterization, propagation, ambient noise); (2) affected species (*e.g.,* life history, dive patterns); (3) co-occurrence of marine mammal species with the action; or (4) biological or behavioral context of exposure (*e.g.,* age, calving or feeding areas);
- Individual marine mammal responses (behavioral or physiological) to acoustic stressors (acute, chronic, or cumulative), other stressors, or cumulative impacts from multiple stressors;
- How anticipated responses to stressors impact either: (1) Long-term fitness and survival of individual marine mammals; or (2) populations, species, or stocks;
- Effects on marine mammal habitat (*e.g.,* marine mammal prey species, acoustic habitat, or other important physical components of marine mammal habitat); and
- Mitigation and monitoring effectiveness.

Vessel-Based Visual Monitoring

As described above, PSO observations would take place during daytime airgun operations. During seismic operations, at least five visual PSOs would be based aboard the *Langseth.* Two visual PSOs would be on duty at all time during daytime hours. Monitoring shall be conducted in accordance with the following requirements:

- The operator shall provide PSOs with bigeye binoculars (*e.g.,* 25 x 150; 2.7 view angle; individual ocular focus; height control) of appropriate quality (*i.e.,* Fujinon or equivalent) solely for PSO use. These shall be pedestal-mounted on the deck at the most appropriate vantage point that provides for optimal sea surface observation, PSO safety, and safe operation of the vessel; and
- The operator will work with the selected third-party observer provider to ensure PSOs have all equipment (including backup equipment) needed to adequately perform necessary tasks, including accurate determination of distance and bearing to observed marine mammals.

PSOs must have the following requirements and qualifications:

- PSOs shall be independent, dedicated, trained visual and acoustic PSOs and must be employed by a third-party observer provider;
- PSOs shall have no tasks other than to conduct observational effort (visual or acoustic), collect data, and communicate with and instruct relevant vessel crew with regard to the presence of protected species and mitigation requirements (including brief alerts regarding maritime hazards);
- PSOs shall have successfully completed an approved PSO training course appropriate for their designated task (visual or acoustic). Acoustic PSOs are required to complete specialized training for operating PAM systems and are encouraged to have familiarity with the vessel with which they will be working;
- PSOs can act as acoustic or visual observers (but not at the same time) as long as they demonstrate that their training and experience are sufficient to perform the task at hand;
- NMFS must review and approve PSO resumes accompanied by a relevant training course information packet that includes the name and qualifications (*i.e.,* experience, training completed, or educational background) of the instructor(s), the course outline or syllabus, and course reference material as well as a document stating successful completion of the course;
- NMFS shall have one week to approve PSOs from the time that the necessary information is submitted, after which PSOs meeting the minimum requirements shall automatically be considered approved;
- PSOs must successfully complete relevant training, including completion of all required coursework and passing (80 percent or greater) a written and/or oral examination developed for the training program;
- PSOs must have successfully attained a bachelor's degree from an accredited college or university with a major in one of the natural sciences, a minimum of 30 semester hours or equivalent in the biological sciences, and at least one undergraduate course in math or statistics; and
- The educational requirements may be waived if the PSO has acquired the relevant skills through alternate experience. Requests for such a waiver shall be submitted to NMFS and must include written justification. Requests shall be granted or denied (with justification) by NMFS within one week of receipt of submitted information. Alternate experience that may be considered includes, but is not limited to (1) secondary education and/or experience comparable to PSO duties; (2) previous work experience conducting academic, commercial, or government-sponsored protected species surveys; or (3) previous work experience as a PSO; the PSO should demonstrate good standing and consistently good performance of PSO duties.

For data collection purposes, PSOs shall use standardized data collection forms, whether hard copy or electronic. PSOs shall record detailed information about any implementation of mitigation requirements, including the distance of animals to the acoustic source and description of specific actions that ensued, the behavior of the animal(s), any observed changes in behavior before and after implementation of mitigation, and if shutdown was implemented, the length of time before any subsequent ramp-up of the acoustic source. If required mitigation was not implemented, PSOs should record a description of the circumstances. At a minimum, the following information must be recorded:

- Vessel names (source vessel and other vessels associated with survey) and call signs;
- PSO names and affiliations;
- Dates of departures and returns to port with port name;
- Date and participants of PSO briefings;
- Dates and times (Greenwich Mean Time) of survey effort and times corresponding with PSO effort;
- Vessel location (latitude/longitude) when survey effort began and ended and vessel location at beginning and end of visual PSO duty shifts;
- Vessel heading and speed at beginning and end of visual PSO duty shifts and upon any line change;
- Environmental conditions while on visual survey (at beginning and end of PSO shift and whenever conditions changed significantly), including BSS and any other relevant weather conditions including cloud cover, fog, sun glare, and overall visibility to the horizon;
- Factors that may have contributed to impaired observations during each PSO shift change or as needed as environmental conditions changed (*e.g.,* vessel traffic, equipment malfunctions); and

• Survey activity information, such as acoustic source power output while in operation, number and volume of airguns operating in the array, tow depth of the array, and any other notes of significance (*i.e.,* pre-start clearance, ramp-up, shutdown, testing, shooting, ramp-up completion, end of operations, streamers, etc.).

The following information should be recorded upon visual observation of any protected species:

• Watch status (sighting made by PSO on/off effort, opportunistic, crew, alternate vessel/platform);
• PSO who sighted the animal;
• Time of sighting;
• Vessel location at time of sighting;
• Water depth;
• Direction of vessel's travel (compass direction);
• Direction of animal's travel relative to the vessel;
• Pace of the animal;
• Estimated distance to the animal and its heading relative to vessel at initial sighting;
• Identification of the animal (*e.g.,* genus/species, lowest possible taxonomic level, or unidentified) and the composition of the group if there is a mix of species;
• Estimated number of animals (high/low/best);
• Estimated number of animals by cohort (adults, yearlings, juveniles, calves, group composition, etc.);
• Description (as many distinguishing features as possible of each individual seen, including length, shape, color, pattern, scars or markings, shape and size of dorsal fin, shape of head, and blow characteristics);
• Detailed behavior observations (*e.g.,* number of blows/breaths, number of surfaces, breaching, spyhopping, diving, feeding, traveling; as explicit and detailed as possible; note any observed changes in behavior);
• Animal's closest point of approach (CPA) and/or closest distance from any element of the acoustic source;
• Platform activity at time of sighting (*e.g.,* deploying, recovering, testing, shooting, data acquisition, other); and
• Description of any actions implemented in response to the sighting (*e.g.,* delays, shutdown, ramp-up) and time and location of the action.

If a marine mammal is detected while using the PAM system, the following information should be recorded:

• An acoustic encounter identification number, and whether the detection was linked with a visual sighting;
• Date and time when first and last heard;
• Types and nature of sounds heard (*e.g.,* clicks, whistles, creaks, burst pulses, continuous, sporadic, strength of signal); and
• Any additional information recorded such as water depth of the hydrophone array, bearing of the animal to the vessel (if determinable), species or taxonomic group (if determinable), spectrogram screenshot, and any other notable information.

Reporting

A report would be submitted to NMFS within 90 days after the end of the cruise. The report would summarize the dates and locations of seismic operations, and all marine mammal sightings (dates, times, locations, activities, associated seismic survey activities), and provide full documentation of methods, results, and interpretation pertaining to all monitoring.

The draft report shall also include geo-referenced time-stamped vessel tracklines for all time periods during which airguns were operating. Tracklines should include points recording any change in airgun status (*e.g.,* when the airguns began operating, when they were turned off, or when they changed from full array to single gun or vice versa). GIS files shall be provided in ESRI shapefile format and include the UTC date and time, latitude in decimal degrees, and longitude in decimal degrees. All coordinates shall be referenced to the WGS84 geographic coordinate system. In addition to the report, all raw observational data shall be made available to NMFS. The report must summarize the data collected as described above and in the IHA. A final report must be submitted within 30 days following resolution of any comments on the draft report.

Reporting Injured or Dead Marine Mammals

Discovery of injured or dead marine mammals—In the event that personnel involved in survey activities covered by the authorization discover an injured or dead marine mammal, the L–DEO shall report the incident to the Office of Protected Resources (OPR), NMFS and to the NMFS Alaska Regional Stranding Coordinator as soon as feasible. The report must include the following information:

• Time, date, and location (latitude/longitude) of the first discovery (and updated location information if known and applicable);
• Species identification (if known) or description of the animal(s) involved;
• Condition of the animal(s) (including carcass condition if the animal is dead);
• Observed behaviors of the animal(s), if alive;
• If available, photographs or video footage of the animal(s); and
• General circumstances under which the animal was discovered.

Vessel strike—In the event of a ship strike of a marine mammal by any vessel involved in the activities covered by the authorization, L–DEO shall report the incident to OPR, NMFS and to the NMFS Alaska Regional Stranding Coordinator as soon as feasible. The report must include the following information:

• Time, date, and location (latitude/longitude) of the incident;
• Vessel's speed during and leading up to the incident;
• Vessel's course/heading and what operations were being conducted (if applicable);
• Status of all sound sources in use;
• Description of avoidance measures/requirements that were in place at the time of the strike and what additional measure were taken, if any, to avoid strike;
• Environmental conditions (*e.g.,* wind speed and direction, Beaufort sea state, cloud cover, visibility) immediately preceding the strike;
• Species identification (if known) or description of the animal(s) involved;
• Estimated size and length of the animal that was struck;
• Description of the behavior of the animal immediately preceding and following the strike;
• If available, description of the presence and behavior of any other marine mammals present immediately preceding the strike;
• Estimated fate of the animal (*e.g.,* dead, injured but alive, injured and moving, blood or tissue observed in the water, status unknown, disappeared); and
• To the extent practicable, photographs or video footage of the animal(s).

Actions To Minimize Additional Harm To Live-Stranded (or Milling) Marine Mammals

In the event of a live stranding (or near-shore atypical milling) event within 50 km of the survey operations, where the NMFS stranding network is engaged in herding or other interventions to return animals to the water, the Director of OPR, NMFS (or designee) will advise L–DEO of the need to implement shutdown for all active acoustic sources operating within 50 km of the stranding. Procedures related to shutdowns for live stranding or milling marine mammals include the following:

• If at any time, the marine mammal(s) die or are euthanized, or if

herding/intervention efforts are stopped, the Director of OPR, NMFS (or designee) will advise L–DEO that the shutdown around the animals' location is no longer needed.

• Otherwise, shutdown procedures will remain in effect until the Director of OPR, NMFS (or designee) determines and advises L–DEO that all live animals involved have left the area (either of their own volition or following an intervention).

• If further observations of the marine mammals indicate the potential for re-stranding, additional coordination with L–DEO will be required to determine what measures are necessary to minimize that likelihood (*e.g.,* extending the shutdown or moving operations farther away) and to implement those measures as appropriate.

Additional Information Requests—If NMFS determines that the circumstances of any marine mammal stranding found in the vicinity of the activity suggest investigation of the association with survey activities is warranted, and an investigation into the stranding is being pursued, NMFS will submit a written request to L–DEO indicating that the following initial available information must be provided as soon as possible, but no later than 7 business days after the request for information:

• Status of all sound source use in the 48 hours preceding the estimated time of stranding and within 50 km of the discovery/notification of the stranding by NMFS; and

• If available, description of the behavior of any marine mammal(s) observed preceding (*i.e.,* within 48 hours and 50 km) and immediately after the discovery of the stranding.

In the event that the investigation is still inconclusive, the investigation of the association of the survey activities is still warranted, and the investigation is still being pursued, NMFS may provide additional information requests, in writing, regarding the nature and location of survey operations prior to the time period above.

Negligible Impact Analysis and Determination

NMFS has defined negligible impact as an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival (50 CFR 216.103). A negligible impact finding is based on the lack of likely adverse effects on annual rates of recruitment or survival (*i.e.,* population-level effects). An estimate of the number of takes alone is not enough information on which to base an impact determination. In addition to considering estimates of the number of marine mammals that might be ''taken'' through harassment, NMFS considers other factors, such as the likely nature of any responses (*e.g.,* intensity, duration), the context of any responses (*e.g.,* critical reproductive time or location, migration), as well as effects on habitat, and the likely effectiveness of the mitigation. We also assess the number, intensity, and context of estimated takes by evaluating this information relative to population status. Consistent with the 1989 preamble for NMFS's implementing regulations (54 FR 40338; September 29, 1989), the impacts from other past and ongoing anthropogenic activities are incorporated into this analysis via their impacts on the environmental baseline (*e.g.,* as reflected in the regulatory status of the species, population size and growth rate where known, ongoing sources of human-caused mortality, or ambient noise levels).

To avoid repetition, our analysis applies to all species listed in Table 1, given that NMFS expects the anticipated effects of the planned geophysical survey to be similar in nature. Where there are meaningful differences between species or stocks, or groups of species, in anticipated individual responses to activities, impact of expected take on the population due to differences in population status, or impacts on habitat, NMFS has identified species-specific factors to inform the analysis.

As described above, we propose to authorize only the takes estimated to occur outside of Canadian territorial waters (Table 7); however, for the purposes of our negligible impact analysis and determination, we consider the total number of takes that are anticipated to occur as a result of the entire survey (including the portion of the survey that would occur within the Canadian territorial waters (approximately 13 percent of the survey) (Table 8).

TABLE 8—TOTAL ESTIMATED TAKE INCLUDING CANADIAN TERRITORIAL WATERS

Species	Level B harassment (excluding Canadian territorial waters)	Level A harassment (excluding Canadian territorial waters)	Level B harassment (Canadian territorial waters)	Level A harassment (Canadian territorial waters)	Total Level B harassment	Total Level A harassment
Gray whale, WNP	2	0	1	0	3	0
Gray whale, ENP	1,448	45	666	16	2,114	61
Humpback whale	403	14	165	4	568	18
Blue whale	31	1	4	0	35	1
Fin whale	873	44	69	1	942	45
Sei whale	34	1	7	0	41	1
Minke whale	57	2	14	0	71	2
Sperm whale	131	0	22	0	153	0
Baird's beaked whale	29	0	2	0	31	0
Stejneger's beaked whale	120	0	9	0	129	0
Cuvier's beaked whale	114	0	9	0	123	0
Pacific white-sided dolphin	1,374	0	191	0	1,565	0
Northern right whale dolphin	927	0	451	0	1,378	0
Risso's dolphin	22	0	22	0	44	0
Killer whale	290	0	89	0	379	0
Dall's porpoise	5,661	178	1,825	36	7,486	214
Harbor porpoise	990	26	455	9	1,445	35
Northern fur seal	5,812	0	1,213	0	7,025	0
California sea lion	1,258	0	433	0	1,691	0
Steller sea lion, wDPS	54	0	55	0	109	0
Steller sea lion, eDPS	2,381	0	2,467	0	4,848	0
Northern elephant seal	6,850	0	1,429	0	8,279	0
Harbor seal	6,012	0	6,228	0	12,240	0

NMFS does not anticipate that serious injury or mortality would occur as a result of L–DEO's planned survey, even in the absence of mitigation, and none would be authorized. Similarly, non-auditory physical effects, stranding, and vessel strike are not expected to occur.

We are proposing to authorize a limited number of instances of Level A harassment of seven species (low- and high-frequency cetacean hearing groups only) and Level B harassment only of the remaining marine mammal species. However, we believe that any PTS incurred in marine mammals as a result of the planned activity would be in the form of only a small degree of PTS, not total deafness, because of the constant movement of both the R/V *Langseth* and of the marine mammals in the project areas, as well as the fact that the vessel is not expected to remain in any one area in which individual marine mammals would be expected to concentrate for an extended period of time. Since the duration of exposure to loud sounds will be relatively short it would be unlikely to affect the fitness of any individuals. Also, as described above, we expect that marine mammals would likely move away from a sound source that represents an aversive stimulus, especially at levels that would be expected to result in PTS, given sufficient notice of the R/V *Langseth's* approach due to the vessel's relatively low speed when conducting seismic surveys. We expect that the majority of takes would be in the form of short-term Level B behavioral harassment in the form of temporary avoidance of the area or decreased foraging (if such activity were occurring), reactions that are considered to be of low severity and with no lasting biological consequences (*e.g.,* Southall *et al.,* 2007, Ellison *et al.,* 2012).

Marine mammal habitat may be impacted by elevated sound levels, but these impacts would be temporary. Prey species are mobile and are broadly distributed throughout the project areas; therefore, marine mammals that may be temporarily displaced during survey activities are expected to be able to resume foraging once they have moved away from areas with disturbing levels of underwater noise. Because of the relatively short duration (27 days) and temporary nature of the disturbance, the availability of similar habitat and resources in the surrounding area, the impacts to marine mammals and the food sources that they utilize are not expected to cause significant or long-term consequences for individual marine mammals or their populations.

The tracklines of this survey either traverse or are proximal to critical habitat for the Mexico DPS of humpback whales and for Steller sea lions, and to feeding BIAs for humpback whales in general (including both the Hawaii and Mexico DPSs/Central North Pacific stock whales that are anticipated to occur in the survey area). As described previously, the survey area is near a feeding BIA for gray whales and covers the gray whale migratory BIA. However, these BIAs would not be affected as they are spatially and temporally separated, respectively, from the survey.

Yazvenko *et al.* (2007) reported no apparent changes in the frequency of feeding activity in Western gray whales exposed to airgun sounds in their feeding grounds near Sakhalin Island. Goldbogen *et al.* (2013) found blue whales feeding on highly concentrated prey in shallow depths (such as the conditions expected within humpback feeding BIAs) were less likely to respond and cease foraging than whales feeding on deep, dispersed prey when exposed to simulated sonar sources, suggesting that the benefits of feeding for humpbacks foraging on high-density prey may outweigh perceived harm from the acoustic stimulus, such as the seismic survey (Southall *et al.,* 2016). Additionally, L–DEO will shut down the airgun array upon observation of an aggregation of six or more large whales, which would reduce impacts to cooperatively foraging animals. For all habitats, no physical impacts to habitat are anticipated from seismic activities. While SPLs of sufficient strength have been known to cause injury to fish and fish and invertebrate mortality, in feeding habitats, the most likely impact to prey species from survey activities would be temporary avoidance of the affected area and any injury or mortality of prey species would be localized around the survey and not of a degree that would adversely impact marine mammal foraging. The duration of fish avoidance of a given area after survey effort stops is unknown, but a rapid return to normal recruitment, distribution and behavior is expected. Given the short operational seismic time near or traversing important habitat areas, as well as the ability of cetaceans and prey species to move away from acoustic sources, NMFS expects that there would be, at worst, minimal impacts to animals and habitat within these areas.

Critical habitat for Steller sea lions has been established at three rookeries in southeast Alaska (Hazy Island, White Sisters Island, and Forrester Island near Dixon Entrance), at several major haul-outs, and including aquatic zones that extend 0.9 km seaward and air zones extending 0.9 km above the rookeries. Steller sea lions occupy rookeries and pup from late-May through early-July (NMFS. 2008), indicating that L–DEO's survey is unlikely to impact important sea lion behaviors in critical habitat. Impacts to Steller sea lions within these areas, and throughout the survey area, as well as impacts to other pinniped species, are expected to be limited to short-term behavioral disturbance, with no lasting biological consequences.

Negligible Impact Conclusions

The proposed survey would be of short duration (27 days of seismic operations), and the acoustic ''footprint'' of the proposed survey would be small relative to the ranges of the marine mammals that would potentially be affected. Sound levels would increase in the marine environment in a relatively small area surrounding the vessel compared to the range of the marine mammals within the proposed survey area. Short term exposures to survey operations are not likely to significantly disrupt marine mammal behavior, and the potential for longer-term avoidance of important areas is limited.

The proposed mitigation measures are expected to reduce the number and/or severity of takes by allowing for detection of marine mammals in the vicinity of the vessel by visual and acoustic observers, and by minimizing the severity of any potential exposures via shutdowns of the airgun array. Based on previous monitoring reports for substantially similar activities that have been previously authorized by NMFS, we expect that the proposed mitigation will be effective in preventing, at least to some extent, potential PTS in marine mammals that may otherwise occur in the absence of the proposed mitigation (although all authorized PTS has been accounted for in this analysis).

NMFS concludes that exposures to marine mammal species and stocks due to L–DEO's proposed survey would result in only short-term (temporary and short in duration) effects to individuals exposed, over relatively small areas of the affected animals' ranges. Animals may temporarily avoid the immediate area, but are not expected to permanently abandon the area. Major shifts in habitat use, distribution, or foraging success are not expected. NMFS does not anticipate the proposed take estimates to impact annual rates of recruitment or survival.

In summary and as described above, the following factors primarily support our preliminary determination that the impacts resulting from this activity are not expected to adversely affect the

species or stock through effects on annual rates of recruitment or survival:

- No serious injury or mortality is anticipated or proposed to be authorized;
- The proposed activity is temporary and of relatively short duration (27 days);
- The anticipated impacts of the proposed activity on marine mammals would primarily be temporary behavioral changes due to avoidance of the area around the survey vessel;
- The number of instances of potential PTS that may occur are expected to be very small in number. Instances of potential PTS that are incurred in marine mammals are expected to be of a low level, due to constant movement of the vessel and of the marine mammals in the area, and the nature of the survey design (not concentrated in areas of high marine mammal concentration);
- The availability of alternate areas of similar habitat value for marine mammals to temporarily vacate the survey area during the proposed survey to avoid exposure to sounds from the activity;
- The potential adverse effects on fish or invertebrate species that serve as prey species for marine mammals from the proposed survey would be temporary and spatially limited, and impacts to marine mammal foraging would be minimal; and
- The proposed mitigation measures, including visual and acoustic monitoring and shutdowns are expected to minimize potential impacts to marine mammals (both amount and severity).

Based on the analysis contained herein of the likely effects of the specified activity on marine mammals and their habitat, and taking into consideration the implementation of the proposed mitigation and monitoring measures, NMFS preliminarily finds that the total marine mammal take from the proposed activity will have a negligible impact on all affected marine mammal species or stocks.

Small Numbers

As noted above, only small numbers of incidental take may be authorized under Sections 101(a)(5)(A) and (D) of the MMPA for specified activities other than military readiness activities. The MMPA does not define small numbers and so, in practice, where estimated numbers are available, NMFS compares the number of individuals taken to the most appropriate estimation of abundance of the relevant species or stock in our determination of whether an authorization is limited to small numbers of marine mammals. When the predicted number of individuals to be taken is fewer than one-third of the species or stock abundance, the take is considered to be of small numbers. Additionally, other qualitative factors may be considered in the analysis, such as the temporal or spatial scale of the activities.

There are several stocks for which the estimated instances of take appear high when compared to the stock abundance (Table 7), or for which there is no currently accepted stock abundance estimate. These include the fin whale, minke whale, sperm whale, three species of beaked whale, four stocks of killer whales, harbor porpoise, and one stock of harbor seal. However, when other qualitative factors are used to inform an assessment of the likely number of individual marine mammals taken, the resulting numbers are appropriately considered small. We discuss these in further detail below.

For all other stocks (aside from those referenced above and discussed below), the proposed take is less than one-third of the best available stock abundance (recognizing that some of those takes may be repeats of the same individual, thus rendering the actual percentage even lower), and noting that we generally excluded consideration of abundance information for British Columbia in considering the amount of take relative to the best available stock abundance information.

The stock abundance estimates for the fin, minke, beaked, and sperm whale stocks that occur in the survey area are unknown, according to the latest SARs. The same is true for the harbor porpoise. Therefore, we reviewed other scientific information in making our small numbers determinations for these species. As noted previously, partial abundance estimates of 1,233 and 2,020 minke whales are available for shelf and nearshore waters between the Kenai Peninsula and Amchitka Pass and for the eastern Bering Sea shelf, respectively. For the minke whale, these partial abundance estimates alone are sufficient to demonstrate that the proposed take number of 59 is of small numbers. The same surveys produced partial abundance estimates of 1,652 and 1,061 fin whales, for the same areas, respectively. Considering these two partial abundance estimates in conjunction with the British Columbia abundance estimate of 329 whales produces a total partial estimate of 3,042 whales for shelf and nearshore waters between the Kenai Peninsula and Amchitka Pass, the eastern Bering Sea shelf, and British Columbia. Given that the Northeast Pacific stock of fin whale's range is described as covering the entire GOA and Bering Sea, we reasonably assume that a total abundance estimate for the stock would show that the take number proposed for authorization (917) is small. In addition, for these stocks as well as for other stocks discussed below whose range spans the GOA, given that the estimated take will take place in a relatively small portion of the stock's range, it is likely there would be repeat takes of a smaller number of individuals, and therefore, the number of individual animals taken will be lower.

As noted previously, Kato and Miyashita (1998) produced an abundance estimate of 102,112 sperm whales in the western North Pacific. However, this estimate is believed to be positively biased. We therefore refer to Barlow and Taylor (2005)'s estimate of 26,300 sperm whales in the northeast temperate Pacific to demonstrate that the proposed take number of 136 is a small number. There is no abundance information available for any Alaskan stock of beaked whale. However, the take numbers are sufficiently small (ranging from 29–120) that we can safely assume that they are small relative to any reasonable assumption of likely population abundance for these stocks. As an example, we review available abundance information for other stocks of Cuvier's beaked whales, which is widely distributed throughout deep waters of all oceans and is typically the most commonly encountered beaked whale in its range. Where some degree of bias correction, which is critical to an accurate abundance estimate for cryptic species like beaked whales, is incorporated to the estimate, we see typical estimates in the thousands of animals, demonstrating that the take numbers proposed for authorization are reasonably considered small. Current abundance estimates include the Western North Atlantic stock (5,744 animals; CV = 0.36), the Hawaii Pelagic stock (4,431 animals, CV = 0.41), and the California/Oregon/Washington stock (3,274 animals; CV = 0.67).

For the southeast Alaska stock of harbor porpoise, whose range is defined as from Dixon Entrance to Cape Suckling (including inland waters), the SAR describes a partial abundance estimate, covering inland waters but not coastal waters, totaling 1,354 porpoise. This most recent abundance estimate is based on survey effort in inland waters during 2010–12 (Dahlheim *et al.,* 2015). An older abundance estimate, based on survey effort conducted in 1997, covering both coastal and inland waters of the stock's range, provides a more complete abundance estimate of 11,146 animals (Hobbs and Waite, 2010). This

estimate is sufficient to demonstrate that the take number proposed for authorization (1,016) is small.

For the potentially affected stocks of killer whale, it would be unreasonable to assume that all takes would accrue to any one stock. Although the Gulf of Alaska, Aleutian Islands, and Bering Sea (GOA/BSAI) transient stock could occur in southeast Alaska, it is unlikely that any significant proportion of encountered whales would belong to this stock, which is generally considered to occur mainly from Prince William Sound through the Aleutian Islands and Bering Sea. Transient killer whales in Canadian waters are considered part of the West Coast transient stock, further minimizing the potential for encounter with the GOA/BSAI transient stock. We assume that only nominal, if any, take would actually accrue to this stock. Similarly, the offshore stock is encountered only rarely compared with resident and transient stocks. Seasonal sighting data collected in southeast Alaska waters between 1991 and 2007 shows a ratio of offshore and resident killer whale sightings of 0.05 (Dahlheim *et al.,* 2009), and it is unlikely that any amount of take accruing to this stock would exceed small numbers. We anticipate that most killer whales encountered would be transient or resident whales. For the remaining stocks, we assume that take would accrue to each stock in a manner roughly approximate to the stocks' relative abundances, *i.e.,* 78 percent Alaska resident, 12 percent West Coast transient, and 10 percent northern resident. This would equate to approximately 226 takes from the Alaska resident stock (9.6 percent of the stock abundance); 35 takes from the West Coast transient stock (10 percent of the stock abundance), and 29 takes from the northern resident stock (9.6 percent of the stock abundance). Based on the assumptions described in this paragraph, we preliminary find that the taking proposed for authorization is of no greater than small numbers for any stock of killer whale.

If all takes proposed for authorization are allotted to each individual harbor seal stock, the estimated instances of take would be greater than one-third of the best available abundance estimate for the Sitka/Chatham Strait stock of harbor seal. However, similarly to the discussion provided above for killer whale, it would be unreasonable to assume that all takes would accrue to any one stock. Based on the location of the proposed survey relative to the potentially affected stocks' ranges, it is unlikely that a significant proportion of the estimated takes would occur to the Sitka/Chatham Strait stock (whose range just overlaps with the northern extent of the survey area) (Muto *et al.,* 2020). A majority of takes are likely to accrue to the Dixon/Cape Decision stock, which most directly overlaps with the proposed survey area. In the unlikely event that all takes occurred to the Dixon/Cape Decision stock, the amount of take would be of small numbers.

Based on the analysis contained herein of the proposed activity (including the proposed mitigation and monitoring measures) and the anticipated take of marine mammals, NMFS preliminarily finds that small numbers of marine mammals will be taken relative to the population size of the affected species or stocks.

Unmitigable Adverse Impact Analysis and Determination

Marine mammals are legally hunted in Alaskan waters by coastal Alaska Natives. In the GOA, the only marine mammals under NMFS' jurisdiction that are currently hunted are Steller sea lions and harbor seals. These species are an important subsistence resource for Alaska Natives from southeast Alaska to the Aleutian Islands. There are numerous communities along the shores of the GOA that participate in subsistence hunting, including Juneau, Ketchikan, Sitka, and Yakutat in southeast Alaska (Wolfe *et al.,* 2013). According to Muto *et al.* (2019), the annual subsistence take of Steller sea lions from the eastern stock was 11, and 415 northern fur seals are taken annually. In addition, 340 harbor seals are taken annually (Muto *et al.* 2019). The seal harvest throughout Southeast Alaska is generally highest during spring and fall, but can occur any time of the year (Wolfe *et al.,* 2013).

Given the temporary nature of the proposed activities and the fact that most operations would occur further from shore, the proposed activity would not be expected to have any impact on the availability of the species or stocks for subsistence users. L–DEO is conducting outreach to local stakeholders, including subsistence communities, to notify subsistence hunters of the planned survey, to identify the measures that would be taken to minimize any effects on the availability of marine mammals for subsistence uses, and to provide an opportunity for comment on these measures. During operations, radio communications and Notice to Mariners would keep interested parties apprised of vessel activities. NMFS is unaware of any other subsistence uses of the affected marine mammal stocks or species that could be implicated by this action. Therefore, NMFS has preliminarily 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. NMFS requests comments or any information that may help to inform this determination.

Endangered Species Act (ESA)

Section 7(a)(2) of the ESA of 1973 (16 U.S.C. 1531 *et seq.*) requires that each Federal agency insure that any action it authorizes, funds, or carries out is not likely to jeopardize the continued existence of any endangered or threatened species or result in the destruction or adverse modification of designated critical habitat. To ensure ESA compliance for the issuance of IHAs, NMFS consults internally whenever we propose to authorize take for endangered or threatened species.

NMFS is proposing to authorize take of blue whales, fin whales, sei whales, sperm whales, Mexico DPS humpback whales, western DPS Steller sea lions, and WNP gray whales, which are listed under the ESA. The NMFS OPR Permits and Conservation Division has requested initiation of Section 7 consultation with the NMFS OPR ESA Interagency Cooperation Division for the issuance of this IHA. NMFS will conclude the ESA consultation prior to reaching a determination regarding the proposed issuance of the authorization.

Proposed Authorization

As a result of these preliminary determinations, NMFS proposes to issue an IHA to L–DEO for conducting a marine geophysical survey in the northeast Pacific beginning in July 2021, provided the previously mentioned mitigation, monitoring, and reporting requirements are incorporated. A draft of the proposed IHA can be found at *www.fisheries.noaa.gov/permit/incidental-take-authorizations-under-marine-mammal-protection-act.*

Request for Public Comments

We request comment on our analyses, the proposed authorization, and any other aspect of this notice of Proposed IHA for the proposed geophysical survey. We also request at this time comment on the potential Renewal of this proposed IHA as described in the paragraph below. Please include with your comments any supporting data or literature citations to help inform decisions on the request for this IHA or a subsequent Renewal IHA.

On a case-by-case basis, NMFS may issue a one-time, one-year Renewal IHA following notice to the public providing

an additional 15 days for public comments when (1) up to another year of identical, or nearly identical, activities as described in the Description of Proposed Activity section of this notice is planned or (2) the activities as described in the Description of Proposed Activity section of this notice would not be completed by the time the IHA expires and a Renewal would allow for completion of the activities beyond that described in the *Dates and Duration* section of this notice, provided all of the following conditions are met:

- A request for renewal is received no later than 60 days prior to the needed Renewal IHA effective date (recognizing that the Renewal IHA expiration date cannot extend beyond one year from expiration of the initial IHA);
- The request for renewal must include the following:

(1) An explanation that the activities to be conducted under the requested Renewal IHA are identical to the activities analyzed under the initial IHA, are a subset of the activities, or include changes so minor (*e.g.,* reduction in pile size) that the changes do not affect the previous analyses, mitigation and monitoring requirements, or take estimates (with the exception of reducing the type or amount of take); and

(2) A preliminary monitoring report showing the results of the required monitoring to date and an explanation showing that the monitoring results do not indicate impacts of a scale or nature not previously analyzed or authorized.

- Upon review of the request for Renewal, the status of the affected species or stocks, and any other pertinent information, NMFS determines that there are no more than minor changes in the activities, the mitigation and monitoring measures will remain the same and appropriate, and the findings in the initial IHA remain valid.

Dated: May 28, 2021.

Catherine Marzin,

Acting Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2021–11718 Filed 6–3–21; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Withdrawal of Notice of Intent To Prepare an Environmental Impact Statement for Monterey Bay Regional Water Project Desalination Facility

AGENCY: Office of National Marine Sanctuaries (ONMS), National Ocean Service (NOS), National Oceanic and Atmospheric Administration (NOAA), Department of Commerce (DOC).

ACTION: Withdrawal of notice of intent to prepare an environmental impact statement.

SUMMARY: NOAA's Office of National Marine Sanctuaries is issuing this notice to advise Federal, state, and local government agencies and the public that it is withdrawing its Notice of Intent to prepare a draft environmental impact statement for the proposed action to construct and operate a seawater reverse osmosis desalination facility and co-located seawater-cooled 150-megawatt computer data center campus project at Moss Landing, Monterey County, California. NOAA is terminating the review of this project under the National Environmental Policy Act because the proposed project scope has changed significantly.

FOR FURTHER INFORMATION CONTACT: Karen Grimmer, Resource Protection Coordinator, Monterey Bay National Marine Sanctuary, at *karen.grimmer@noaa.gov*, or by mail at 99 Pacific Street, Suite 455A, Monterey, California 93940.

SUPPLEMENTARY INFORMATION: NOAA published a Notice of Intent (NOI) in the **Federal Register** on June 1, 2015 *(80 FR 31022),* to prepare a joint environmental impact report (EIR)/environmental impact statement (EIS) with the California State Lands Commission (CSLC) in accordance with the National Environmental Policy Act (NEPA) and the California Environmental Quality Act. The joint EIR/EIS would have analyzed the impacts on the human environment resulting from DeepWater Desal's construction and operation of a seawater reverse osmosis (SWRO) desalination facility and co-located seawater-cooled 150-megawatt computer data center campus project (Project) at Moss Landing, Monterey County, California.

DeepWater Desal submitted an application for permit approval to Monterey Bay National Marine Sanctuary to construct and operate a SWRO desalination facility capable of producing 25,000 acre-feet per year of potable water and a co-located seawater-cooled computer data center campus on a 110-acre site located approximately 1.5 miles east of Moss Landing. Additional details about the Project are included in the NOI dated June 1, 2015. NOAA solicited public input on the scope of the analysis through a public comment period on the NOI from June 1, 2015, to July 1, 2015. NOAA received six comments in response to the notice, which are publicly available on *http://www.regulations.gov* under docket NOAA–NOS–2015–0069. NOAA and CSLC held a joint public scoping meeting for the project on Tuesday, June 16, 2015, and six commenters provided testimony.

NOAA is terminating the NEPA process and closing the Project's permit application because the permit applicant notified NOAA in May 2020 that the primary scope of the Project changed from desalination to land-based aquaculture. NOAA finds that the scope of the Project has changed significantly since publication of the 2015 NOI and the scoping process completed in 2015 is no longer relevant. Therefore, NOAA is withdrawing the NOI to prepare an EIS for this Project. Should NOAA receive a new permit application, NOAA will determine at that time what level of NEPA review is required for the project.

Authority: 16 U.S.C. 1431 *et seq.;* 40 CFR 1500–1508; Companion Manual for NOAA Administrative Order 216–6A, 82 FR 4306.

John Armor,

Director, Office of National Marine Sanctuaries National Ocean Service, National Oceanic and Atmospheric Administration.

[FR Doc. 2021–11714 Filed 6–3–21; 8:45 am]

BILLING CODE 3510–NK–P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List; Deletions

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled

ACTION: Deletions from the procurement list.

SUMMARY: This action deletes product(s) from the Procurement List previously furnished by nonprofit agencies employing persons who are blind or have other severe disabilities.

DATES: *Date deleted from the Procurement List:* July 04, 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) 785–6404 or email *CMTEFedReg@AbilityOne.gov.*

SUPPLEMENTARY INFORMATION:

Deletions

On 4/30/2021, 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) and service(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) and service(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): 8530–00–080–7630—Toothbrush, Child
Contracting Activity: DLA TROOP SUPPORT, PHILADELPHIA, PA

NSN(s)—Product Name(s):
8530–01–293–1388—Toothbrush, Child's (Multituft)
8520–01–303–6438—Toothpaste, 1.4 oz., Non-Fluoride
Contracting Activity: GSA/FSS GREATER SOUTHWEST ACQUISITI, FORT WORTH, TX

Michael R. Jurkowski,

Deputy Director, Business Operations.

[FR Doc. 2021–11750 Filed 6–3–21; 8:45 am]

BILLING CODE 6353–01–P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List; Proposed Additions and Deletions

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Proposed additions to and deletions from the Procurement List.

SUMMARY: The Committee is proposing to add 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) and service(s) previously furnished by such agencies.

DATES: Comments must be received on or before: July 04, 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) 785–6404 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.

Additions

If the Committee approves the proposed additions, the entities of the Federal Government identified in this notice will be required to procure the product(s) listed below from nonprofit agencies employing persons who are blind or have other severe disabilities.

The following product(s) are proposed for addition to the Procurement List for production by the nonprofit agencies listed:

Product(s)

NSN(s)—Product Name(s):
MR 10797—Flashlight, Includes Shipper 20797
MR 11508—Cat Teaser
MR 11509—Pet Collar
MR 11510—Toy, Pet, Squeaky
MR 10807—Pantry Basket, Includes Shipper 20807
MR 10806—Cutting Board, Includes Shipper 20806
MR 10799—Egg Scrambler, Includes Shipper 20799
MR 13153—Pizza Crisper
MR 10809—Onion Saver, Includes Shipper 20809
MR 10798—Headlamp, Includes Shipper 20798
MR 13154—Sauce Pan, 2 QT
Designated Source of Supply: Winston-Salem Industries for the Blind, Inc., Winston-Salem, NC
Mandatory For: The requirements of military commissaries and exchanges in accordance with the 41 CFR 51–6.4
Contracting Activity: Military Resale-Defense Commissary Agency
Distribution: C-List

Deletions

The following product(s) and service(s) are proposed for deletion from the Procurement List:

Product(s)

NSN(s)—Product Name(s): 7930–00–NIB–0213—Finish Remover, Concentrate, 2 Liter
Designated Source of Supply: Beacon Lighthouse, Inc., Wichita Falls, TX
Contracting Activity: STRATEGIC ACQUISITION CENTER, FREDERICKSBURG, VA

NSN(s)—Product Name(s):
7520–01–618–9917—Portable Desktop Clipboard, 9 1/2″ W × 1 1/2″ D × 13 1/2″ H, Black
7520–01–653–5889—Clipboard, Desktop, Reflective Yellow, 9 1/2″ W × 1 1/2″ D × 13 1/2″ H
7520–01–622–2122—Portable Desktop Clipboard, 10″ W × 2 3/5″ D × 16″ H, Black
7520–01–622–2123—Portable Desktop Clipboard, 10″ W × 2 3/5″ D × 16″ H, Blue
Designated Source of Supply: LC Industries, Inc., Durham, NC
Contracting Activity: GSA/FAS ADMIN SVCS ACQUISITION BR(2, NEW YORK, NY

NSN(s)—Product Name(s): 8465–01–524–7253—Adapter, ALICE Clip, Universal Camouflage
Designated Source of Supply: Lions Services, Inc., Charlotte, NC
Contracting Activity: DLA TROOP SUPPORT, PHILADELPHIA, PA

NSN(s)—Product Name(s): MR 11319—Mug, Travel, Stainless Steel, Classic, 20 oz.
Designated Source of Supply: Association for Vision Rehabilitation and Employment, Inc., Binghamton, NY
Contracting Activity: Military Resale-Defense Commissary Agency

NSN(s)—Product Name(s): 7930–01–513–9968—Remover, Carpet Stain, Aerosol, 19 oz.
Designated Source of Supply: The Lighthouse for the Blind, St. Louis, MO
Contracting Activity: GSA/FSS GREATER SOUTHWEST ACQUISITI, FORT WORTH, TX

Service(s)

Service Type: Temp. Admin/General Support Services
Mandatory for: GSA, Southwest Supply Center: 819 Taylor Street, Fort Worth, TX
Designated Source of Supply: Tarrant County Association for the Blind, Fort Worth, TX
Designated Source of Supply: Louisiana Association for the Blind, Shreveport, LA

Contracting Activity: GENERAL SERVICES ADMINISTRATION, FPDS AGENCY COORDINATOR

Service Type: CBRNE Kit Sustainment and Replenishment

Mandatory for: Naval Medical Logistics Command, Fort Detrick, MD, (Offsite: 10440 Trenton Avenue, St. Louis, MO), 693 Nelman Street, Fort Detrick, MD

Designated Source of Supply: The Lighthouse for the Blind, St. Louis, MO

Contracting Activity: DEPT OF THE NAVY, NAVAL MEDICAL LOGISTICS COMMAND

Service Type: Shelf Stocking, Custodial & Warehousing

Mandatory for: Fort Knox, KY

Contracting Activity: DEFENSE COMMISSARY AGENCY (DECA), DEFENSE COMMISSARY AGENCY

Michael R. Jurkowski,

Deputy Director, PL Operations.

[FR Doc. 2021–11749 Filed 6–3–21; 8:45 am]

BILLING CODE 6353–01–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 Number: PR21–34–001.

Applicants: Enable Oklahoma Intrastate Transmission, LLC.

Description: Tariff filing per 284.123(b),(e)+(g): EOIT 2021 Revised Petition for Section 311 Rate Approval (PR21–34) to be effective 7/1/2021.

Filed Date: 5/27/2021.

Accession Number: 202105275223.

Comments Due: 5 p.m. ET 6/10/2021.

284.123(g) Protests Due: 5 p.m. ET 6/10/2021.

Docket Numbers: RP21–844–000.

Applicants: Kinder Morgan Louisiana Pipeline LLC.

Description: § 4(d) Rate Filing: Periodic Rate Adjustment_21 to be effective 7/1/2021.

Filed Date: 5/27/21.

Accession Number: 20210527–5029.

Comments Due: 5 p.m. ET 6/8/21.

Docket Numbers: RP21–845–000.

Applicants: El Paso Natural Gas Company, L.L.C.

Description: § 4(d) Rate Filing: Negotiated Rate Agreement (Ameredev) to be effective 7/1/2021.

Filed Date: 5/27/21.

Accession Number: 20210527–5091.

Comments Due: 5 p.m. ET 6/8/21.

Docket Numbers: RP21–846–000.

Applicants: Natural Gas Pipeline Company of America.

Description: § 4(d) Rate Filing: Negotiated Rate Agreements Filing—Elgin Energy Center LLC to be effective 6/1/2021.

Filed Date: 5/27/21.

Accession Number: 20210527–5144.

Comments Due: 5 p.m. ET 6/8/21.

Docket Numbers: RP21–847–000.

Applicants: Colorado Interstate Gas Company, L.L.C.

Description: § 4(d) Rate Filing: Quarterly LUF True-Up to be effective 7/1/2021.

Filed Date: 5/27/21.

Accession Number: 20210527–5145.

Comments Due: 5 p.m. ET 6/8/21.

Docket Numbers: RP21–848–000.

Applicants: TransColorado Gas Transmission Company LLC.

Description: § 4(d) Rate Filing: Quarterly Fuel Gas Reimbursement Update Filing to be effective 7/1/2021.

Filed Date: 5/27/21.

Accession Number: 20210527–5148.

Comments Due: 5 p.m. ET 6/8/21.

Docket Numbers: RP21–849–000.

Applicants: Columbia Gas Transmission, LLC.

Description: § 4(d) Rate Filing: June 21 Neg Rate Amendment to be effective 6/1/2021.

Filed Date: 5/27/21.

Accession Number: 20210527–5197.

Comments Due: 5 p.m. ET 6/8/21.

Docket Numbers: RP21–850–000.

Applicants: Southwest Gas Storage Company.

Description: § 4(d) Rate Filing: Implement Market Based Rates West Area to be effective 7/1/2021.

Filed Date: 5/27/21.

Accession Number: 20210527–5214.

Comments Due: 5 p.m. ET 6/8/21.

Docket Numbers: RP21–851–000.

Applicants: Dauphin Island Gathering Partners.

Description: § 4(d) Rate Filing: Negotiated Rate Filing 5–27–2021 to be effective 6/1/2021.

Filed Date: 5/27/21.

Accession Number: 20210527–5237.

Comments Due: 5 p.m. ET 6/8/21.

Docket Numbers: RP21–852–000.

Applicants: CenterPoint Energy Resources Corp., Summit Utilities Arkansas, Inc.

Description: Joint Petition for Limited Waiver of Capacity Release Regulations, et al. of CenterPoint Energy Resources Corp. and Summit Utilities Arkansas, Inc. under RP21–852.

Filed Date: 5/27/21.

Accession Number: 20210527–5326.

Comments Due: 5 p.m. ET 6/8/21.

Docket Numbers: RP21–853–000.

Applicants: CenterPoint Energy Resources Corp., Summit Utilities Oklahoma, Inc.

Description: Joint Petition for Limited Waiver of Capacity Release Regulations, et al. of CenterPoint Energy Resources Corp. and Summit Utilities Oklahoma, Inc. under RP21–853.

Filed Date: 5/27/21.

Accession Number: 20210527–5327.

Comments Due: 5 p.m. ET 6/8/21.

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: May 28, 2021.

Debbie-Anne A. Reese,

Deputy Secretary.

[FR Doc. 2021–11747 Filed 6–3–21; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. AD10–12–012]

Increasing Market and Planning Efficiency Through Improved Software; Supplemental Notice of Technical Conference on Increasing Real-Time and Day-Ahead Market Efficiency Through Improved Software

As first announced in the Notice of Technical Conference issued in this proceeding on March 11, 2021, Commission staff will convene a technical conference on June 22, 23, and 24, 2021 to discuss opportunities for increasing real-time and day-ahead market efficiency of the bulk power system through improved software. Attached to this Supplemental Notice is an agenda for the technical conference and speakers' summaries of their presentations.

While the intent of the technical conference is not to focus on any specific matters before the Commission, some conference discussions might

include topics at issue in proceedings that are currently pending before the Commission, including topics related to capacity valuation methodologies for renewable, hybrid, or storage resources. These proceedings include, but are not limited to:

PJM Interconnection, L.L.C. Docket No. ER20–584–000

PJM Interconnection, L.L.C. Docket No. EL19–100–000

PJM Interconnection, L.L.C. Docket Nos. ER21–278–000 and ER21–278–001

The conference will take place virtually via WebEx, with remote participation from both presenters and attendees. Further details on remote attendance and participation will be released prior to the conference. Attendees must register through the Commission's website on or before June 11, 2021.[1] WebEx connections may not be available to those who do not register.

The Commission will accept comments following the conference, with a deadline of July 30, 2021.

There is an ''eSubscription'' link on the Commission's website that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

FERC conferences are accessible under section 508 of the Rehabilitation Act of 1973. For accessibility accommodations please send an email to *accessibility@ferc.gov* or call toll free (866) 208–3372 (voice) or (202) 502–8659 (TTY), or send a fax to (202) 208–2106 with the required accommodations.

For further information about these conferences, please contact:

Sarah McKinley (Logistical Information), Office of External Affairs, (202) 502–8004, *Sarah.McKinley@ferc.gov*.

Alexander Smith (Technical Information), Office of Energy Policy and Innovation, (202) 502–6601, *Alexander.Smith@ferc.gov*.

Dated: May 28, 2021.

Kimberly D. Bose,

Secretary.

[FR Doc. 2021–11780 Filed 6–3–21; 8:45 am]

BILLING CODE 6717–01–P

[1] The attendee registration form is located at *https://ferc.webex.com/ferc/onstage/g.php?MTID=e97c1ef8334b1f4db52394fe644edfe57*. Click ''Register'' to be taken to the form.

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2146–259]

Alabama Power Company; Notice of Application Accepted for Filing and Soliciting Comments, Motions To Intervene, and Protests

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Application Type:* Non-Project Use of Project Lands and Waters.

b. *Project No:* 2146–259.

c. *Date Filed:* May 19, 2021.

d. *Applicant:* Alabama Power Company.

e. *Name of Project:* Coosa River Hydroelectric Project.

f. *Location:* The Lay Development of the Coosa River Hydroelectric Project is in Chilton, Coosa, Shelby, and Talledega counties, Alabama; the proposed non-project use of project lands and waters would be located in Shelby County.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791a–825r.

h. *Applicant Contact:* Shelia Smith, Alabama Power Company at (256) 396–5093, or *scsmith@southernco.com*.

i. *FERC Contact:* Shawn Halerz at (202) 502–6360 or *Shawn.Halerz@ferc.gov*.

j. *Deadline for Filing Comments, Motions to Intervene, and Protests:* June 28, 2021.

The Commission strongly encourages electronic filing. Please file comments, motions to intervene, and protests using the Commission's eFiling system at *http://www.ferc.gov/docs-filing/efiling.asp.* Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at *http://www.ferc.gov/docs-filing/ecomment.asp.* You must include your name and contact information at the end of your comments. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov,* (866) 208–3676 (toll free), or (202) 502–8659 (TTY). 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. The first page of any filing should include the docket number P–2146–259. Comments emailed to Commission staff are not considered part of the Commission record.

The Commission's Rules of Practice and Procedure require all intervenors filing documents with the Commission to serve a copy of that document on each person whose name appears on the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. *Description of Request:* Alabama Power Company is requesting Commission approval to permit James and Tracey Etheridge to provide wet-slips, a boat ramp, a courtesy pier, and a seawall that will be associated with an RV park and campground (Lay Lake Campground) located outside of the project boundary. An existing boathouse structure within the project boundary is included in this request as well and was previously permitted through Alabama Power Company's residential permitting program.

l. *Locations of the Application:* This filing may be viewed on the Commission's website at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. You may also register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via email of new filings and issuances related to this or other pending projects. For assistance, call 1–866–208–3676 or email *FERCOnlineSupport@ferc.gov,* for TTY, call (202) 502–8659. Agencies may obtain copies of the application directly from the applicant.

m. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

n. *Comments, Protests, or Motions to Intervene:* Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214, respectively. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

o. *Filing and Service of Documents:* Any filing must (1) bear in all capital letters the title ''COMMENTS'', ''PROTEST'', or ''MOTION TO INTERVENE'' as applicable; (2) set forth in the heading the name of the applicant and the project number of the application to which the filing responds; (3) furnish the name, address, and telephone number of the person commenting, protesting or intervening; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. All comments, motions to intervene, or protests must set forth their evidentiary basis. Any filing made by an intervenor must be accompanied by proof of service on all persons listed in the service list prepared by the Commission in this proceeding, in accordance with 18 CFR 385.2010.

Dated: May 28, 2021.

Kimberly D. Bose,

Secretary.

[FR Doc. 2021–11778 Filed 6–3–21; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. CP20–52–000, CP20–52–001]

WBI Energy Transmission, Inc.; Notice Denying Late Intervention

On February 14, 2020, as amended on July 28, 2020, WBI Energy Transmission, Inc. (WBI) filed an application in Docket Nos. CP20–52–000 and CP20–52–001 under section 7(c) of the Natural Gas Act and Part 157 of the Commission's regulations seeking authorization to construct and operate its North Bakken Expansion Project in Burke, McKenzie, Mountrail, and Williams, Counties, North Dakota.

On February 26, 2020 and August 4, 2020, the Commission issued notices of WBI's application and amendment, establishing March 18, 2020, and August 25, 2020, respectively as the deadlines to file motions to intervene. On May 26, 2021, the Natural Gas Supply Association and the Center for Liquefied Natural Gas (Industry Groups) filed a late motion to intervene.

Under Rule 214 of the Commission's Rules of Practice and Procedure, a motion to intervene must state the movant's interest in sufficient factual detail to demonstrate that the movant has or represents an interest that may be directly affected by the outcome of the proceeding or that the movant's participation is in the public interest.[1] Movants for late intervention must ''show good cause why the time limitation should be waived'' [2] and provide justification by reference to the other factors set forth in Rule 214(d) of the Commission's Rules of Practice and Procedure.[3] When acting on any untimely motion to intervene, Rule 214(d) states that the Commission may consider whether: (1) The movant had good cause; (2) disruption of the proceeding might result from permitting intervention; (3) the movant's interest is adequately represented by other parties in the proceeding; (4) any prejudice to, or additional burdens upon, the existing parties might result from permitting the intervention; and (5) movant satisfied the Commission's filing requirements, including that it demonstrates it is directly affected by the proceeding and its intervention is in the public interest.[4]

In explaining why they were unable to intervene in a timely manner, Industry Groups state that, due to the Commission's decision in an unrelated proceeding, they seek to intervene in these proceedings to allow them to protect their interests should the Commission announce a new policy that might affect them.[5] Here, the Industry Groups fail to demonstrate they have an interest in the proceeding or good cause for their failure to file a timely intervention.[6] Thus, this notice denies their untimely motion to intervene.

This notice constitutes final agency action. Requests for rehearing of this notice must be filed within 30 days of the date of issuance of this notice, pursuant to section 19(a) of the Natural Gas Act, 15 U.S.C. 717r(a), and Rule 713 of the Commission's Rules of Practice and Procedure, 18 CFR 385.713.

Dated: May 28, 2021.

Kimberly D. Bose,

Secretary.

[FR Doc. 2021–11781 Filed 6–3–21; 8:45 am]

BILLING CODE 6717–01–P

[1] 18 CFR 385.214(b)(2)(ii)–(iii).

[2] *Id.* § 385.214(b)(3).

[3] *Id.* § 385.214(d)(ii)–(iv) (factors include the potential disruption caused by such late intervention, whether the movant's interest is not adequately represented by other parties, and any prejudice to existing parties). *See Northern Natural Gas Co.,* 175 FERC ¶ 61,052 (2021).

[4] 18 CFR 385.214(d).

[5] *See* Industry Groups Motion to Intervene at 4.

[6] *See, e.g., Pacific Gas & Electric Co.,* 164 FERC ¶ 61,121, at P 21 (2018) (denying late intervention when the primary reason for late intervention was a concern about precedential effect).

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER16–1404–008.
Applicants: New York Independent System Operator, Inc.
Description: Compliance filing: Compliance: BSM Rules SSE to be effective 2/20/2021.
Filed Date: 5/27/21.
Accession Number: 20210527–5297.
Comments Due: 5 p.m. ET 6/17/21.

Docket Numbers: ER21–460–001.
Applicants: PJM Interconnection, L.L.C.
Description: Compliance filing: Compliance in Docket Nos. EL20–56 and ER21–460 to be effective 9/23/2020.
Filed Date: 5/27/21.
Accession Number: 20210527–5285.
Comments Due: 5 p.m. ET 6/17/21.

Docket Numbers: ER21–700–002.
Applicants: Midcontinent Independent System Operator, Inc.
Description: Compliance filing: 2021–05–27_Emergency Pricing Effective Date Extension Request to be effective N/A.
Filed Date: 5/27/21.
Accession Number: 20210527–5294.
Comments Due: 5 p.m. ET 6/17/21.

Docket Numbers: ER21–1211–001.
Applicants: PJM Interconnection, L.L.C.
Description: Compliance filing: Compliance re: Surety Bonds as Form of Collateral to be effective 5/1/2021.
Filed Date: 5/28/21.
Accession Number: 20210528–5164.
Comments Due: 5 p.m. ET 6/18/21.

Docket Numbers: ER21–1535–001.
Applicants: PJM Interconnection, L.L.C.
Description: Tariff Amendment: Errata to Notice of Cancellation of ISA No. 4810 in Docket No. ER21–1535–000 to be effective 9/27/2017.
Filed Date: 5/27/21.
Accession Number: 20210527–5319.
Comments Due: 5 p.m. ET 6/17/21.

Docket Numbers: ER21–2020–000.
Applicants: Potomac Electric Power Company, PJM Interconnection, L.L.C.
Description: § 205(d) Rate Filing: Pepco Submits Revisions to PJM Tariff, Attachment H–9A to be effective 8/1/2021.
Filed Date: 5/27/21.
Accession Number: 20210527–5300.
Comments Due: 5 p.m. ET 6/17/21.

Docket Numbers: ER21–2020–001.
Applicants: Potomac Electric Power Company, PJM Interconnection, L.L.C.

Description: Tariff Amendment: Amendment to Pepco Submits Revisions to PJM Tariff, Attachment H–9A to be effective 8/1/2021.
Filed Date: 5/27/21.
Accession Number: 20210527–5318.
Comments Due: 5 p.m. ET 6/17/21.

Docket Numbers: ER21–2021–000.
Applicants: Idaho Power Company.
Description: Tariff Cancellation: Cancellation of Concurrence re IPC/Northwestern—Peterson Flats Substation to be effective 6/1/2021.
Filed Date: 5/27/21.
Accession Number: 20210527–5306.
Comments Due: 5 p.m. ET 6/17/21.

Docket Numbers: ER21–2022–000.
Applicants: Public Service Company of New Mexico.
Description: § 205(d) Rate Filing: PIA with Aragonne Wind LLC to be effective 4/28/2021.
Filed Date: 5/27/21.
Accession Number: 20210527–5313.
Comments Due: 5 p.m. ET 6/17/21.

Docket Numbers: ER21–2023–000.
Applicants: Baltimore Gas and Electric Company, PJM Interconnection, L.L.C.
Description: § 205(d) Rate Filing: BGE Submits Revisions to PJM Tariff, Attachment H–2A to be effective 8/1/2021.
Filed Date: 5/27/21.
Accession Number: 20210527–5316.
Comments Due: 5 p.m. ET 6/17/21.

Docket Numbers: ER21–2024–000.
Applicants: PJM Interconnection, L.L.C.
Description: § 205(d) Rate Filing: Original WMPA, Service Agreement No. 6080; Queue No. AF2–274 to be effective 5/4/2021.
Filed Date: 5/28/21.
Accession Number: 20210528–5102.
Comments Due: 5 p.m. ET 6/18/21.

Docket Numbers: ER21–2025–000.
Applicants: Tampa Electric Company.
Description: Request for Waiver, et al. of Tampa Electric Company.
Filed Date: 5/27/21.
Accession Number: 20210527–5338.
Comments Due: 5 p.m. ET 6/17/21.

Docket Numbers: ER21–2026–000.
Applicants: New England Power Pool Participants Committee.
Description: § 205(d) Rate Filing: June 2021 Membership Filing to be effective 5/1/2021.
Filed Date: 5/28/21.
Accession Number: 20210528–5181.
Comments Due: 5 p.m. ET 6/18/21.

Docket Numbers: ER21–2027–000.
Applicants: Southwestern Public Service Company.
Description: § 205(d) Rate Filing: Lubbock PR Agreement Protocol Amendment to be effective 6/1/2021.
Filed Date: 5/28/21.
Accession Number: 20210528–5218.
Comments Due: 5 p.m. ET 6/18/21.

Docket Numbers: ER21–2028–000.
Applicants: Tucson Electric Power Company.
Description: § 205(d) Rate Filing: Service Agreement For Network Integration Transmission Service to be effective 5/1/2021.
Filed Date: 5/28/21.
Accession Number: 20210528–5236.
Comments Due: 5 p.m. ET 6/18/21.

Docket Numbers: ER21–2029–000.
Applicants: NorthWestern Corporation.
Description: § 205(d) Rate Filing: SA 901—NITSA with Western Area Power Administration to be effective 8/1/2021.
Filed Date: 5/28/21.
Accession Number: 20210528–5259.
Comments Due: 5 p.m. ET 6/18/21.

Docket Numbers: ER21–2030–000.
Applicants: Southern California Edison Company.
Description: Tariff Cancellation: First Amended LGIA Desert Quartzite, LLC & Notice of Termination of the eTariff to be effective 4/30/2021.
Filed Date: 5/28/21.
Accession Number: 20210528–5268.
Comments Due: 5 p.m. ET 6/18/21.

Docket Numbers: ER21–2031–000.
Applicants: Cross-Sound Cable Company, LLC.
Description: Baseline eTariff Filing: CSC Schedule 17 Filing to be effective 6/1/2021.
Filed Date: 5/28/21.
Accession Number: 20210528–5278.
Comments Due: 5 p.m. ET 6/18/21.

Docket Numbers: ER21–2032–000.
Applicants: PJM Interconnection, L.L.C.
Description: § 205(d) Rate Filing: Amendment to WMPA, Service Agreement No. 5523; Queue No. AE1–162 to be effective 10/29/2019.
Filed Date: 5/28/21.
Accession Number: 20210528–5293.
Comments Due: 5 p.m. ET 6/18/21.

Docket Numbers: ER21–2033–000.
Applicants: PJM Interconnection, L.L.C.
Description: Tariff Cancellation: Notice of Cancellation of WMPA, SA No. 5495; Queue No. AE1–124 re: withdrawal to be effective 6/28/2021.
Filed Date: 5/28/21.
Accession Number: 20210528–5310.
Comments Due: 5 p.m. ET 6/18/21.

Docket Numbers: ER21–2034–000.
Applicants: PJM Interconnection, L.L.C.
Description: § 205(d) Rate Filing: Amendment to WMPA, Service Agreement No. 4033; Queue No. X3–008 to be effective 11/3/2014.
Filed Date: 5/28/21.
Accession Number: 20210528–5322.
Comments Due: 5 p.m. ET 6/18/21.

Docket Numbers: ER21–2035–000.
Applicants: New York Independent System Operator, Inc., Niagara Mohawk Power Corporation.
Description: § 205(d) Rate Filing: Joint 205 SGIA among NYISO, NMPC and Rock District SA No. 2662 to be effective 5/18/2021.
Filed Date: 5/28/21.
Accession Number: 20210528–5348.
Comments Due: 5 p.m. ET 6/18/21.

Docket Numbers: ER21–2036–000.
Applicants: Pacific Gas and Electric Company.
Description: § 205(d) Rate Filing: May 2021 Western WDT Service Agreement Biannual Filing (SA 17) to be effective 8/1/2021.
Filed Date: 5/28/21.
Accession Number: 20210528–5371.
Comments Due: 5 p.m. ET 6/18/21.

Docket Numbers: ER21–2037–000.
Applicants: Pacific Gas and Electric Company.
Description: § 205(d) Rate Filing: May 2021 Western Interconnection Biannual Filing (TO SA 59) to be effective 8/1/2021.
Filed Date: 5/28/21.
Accession Number: 20210528–5372.
Comments Due: 5 p.m. ET 6/18/21.

Take notice that the Commission received the following PURPA 210(m)(3) filings:

Docket Numbers: QM21–22–000.
Applicants: Basin Electric Power Cooperative, Inc.
Description: Application of Basin Electric Power Cooperative to Terminate Its Mandatory Purchase Obligation under the Public Utility Regulatory Policies Act of 1978.
Filed Date: 5/28/21.
Accession Number: 20210528–5224.
Comments Due: 5 p.m. ET 6/25/21.

Docket Numbers: QM21–23–000.
Applicants: Basin Electric Power Cooperative, Inc.
Description: Application of Basin Electric Power Cooperative to Terminate Its Mandatory Purchase Obligation under the Public Utility Regulatory Policies Act of 1978.
Filed Date: 5/28/21.
Accession Number: 20210528–5227.
Comments Due: 5 p.m. ET 6/25/21.

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: May 28, 2021.

Debbie-Anne A. Reese,

Deputy Secretary.

[FR Doc. 2021–11748 Filed 6–3–21; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[ER–FRL–9056–8]

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 May 24, 2021 10 a.m. EST

Through May 28, 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. 20210061, Final, USFS, CA, Stanislaus National Forest Over-Snow Vehicle (OSV) Use Designation, Review Period Ends: 07/06/2021, Contact: Kathryn Wilkinson 248–672–0518.

EIS No. 20210062, Final, TREAS, MD, Construction and Operation of a Currency Production Facility within the National Capital Region, Review Period Ends: 07/06/2021, Contact: Charles Davis 202–874–3259.

EIS No. 20210063, Draft Supplement, USACE, CA, American River Watershed Common Features Water Resources Development Act of 2016, American River Contract 2, Comment Period Ends: 07/19/2021, Contact: Public Affairs Office 916–557–5101.

EIS No. 20210064, Draft, GSA, MD, U.S. Food and Drug Administration Muirkirk Road Campus Master Plan, Comment Period Ends: 07/19/2021, Contact: Marshall Popkin 202–919–0026.

EIS No. 20210065, Final, BIA, NV, Southern Bighorn Solar Projects, Review Period Ends: 07/06/2021, Contact: Chip Lewis 602–390–2014.

Dated: May 28, 2021.

Cindy S. Barger,

Director, NEPA Compliance Division, Office of Federal Activities.

[FR Doc. 2021–11736 Filed 6–3–21; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL: 10023–03–OMS]

Privacy Act of 1974; System of Records

AGENCY: Office of Mission Support, Environmental Protection Agency.

ACTION: Notice of a modified system of records.

SUMMARY: The U.S. Environmental Protection Agency's Office of Mission Support is giving notice that it proposes to modify a system of records pursuant to the provisions of the Privacy Act of 1974. The Office of Mission Support is modernizing the Debarment and Suspension Files system of records by implementing an electronic case management system: Case Application for Debarment and Suspension. Case Application for Debarment and Suspension is an electronic records management system that supports the Environmental Protection Agency in assembling information in order to conduct and document discretionary suspension and debarment proceedings under the Federal Acquisition Regulation or the Non procurement Common Rule (2 CFR part 180), as well as to carry out the Environmental Protection Agency's obligations to process statutory exclusions under Clean Air Act section 306 and Clean Water Act section 508. The Office of Mission Support is accordingly modifying its system of records notice EPA–33 in several respects. All other exemptions and provisions included in the previously published system of records notice for Debarment and Suspension Files will transfer to the modified system of records notice for Case Application for Debarment and Suspension.

DATES: Persons wishing to comment on this system of records notice must do so by July 6, 2021. New or modified routine uses for this modified system of records will be effective July 6, 2021.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–HQ–OMS–2020–0281, by one of the following methods:

Regulations.gov: https://www.regulations.gov. Follow the online instructions for submitting comments.

Email: docket_oms@epa.gov. Include the Docket ID number in the subject line of the message.

Fax: 202–566–1752.

Mail: OMS Docket, Environmental Protection Agency, Mail Code: 2822T, 1200 Pennsylvania Ave. NW, Washington, DC 20460.

Hand Delivery: OMS Docket, EPA/DC, WJC West Building, Room 3334, 1301 Constitution Ave. NW, Washington, DC 20460. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. EPA–HQ–OMS–2020–0281. The Environmental Protection Agency's (EPA) policy is that all comments received will be included in the public docket without change and may be made available online at *https://www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Controlled Unclassified Information (CUI) or other information for which disclosure is restricted by statute. Do not submit information that you consider to be CUI or otherwise protected through *https://www.regulations.gov.* The *https://www.regulations.gov* website is an ''anonymous access'' system for EPA, which means the EPA will not know your identity or contact information. If you submit an electronic comment, the EPA recommends that you include your name and other contact information in the body of your comment. If the EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, the EPA may not be able to consider your comment. If you send an email comment directly to the EPA without going through *https://www.regulations.gov,* your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the internet. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about the EPA public docket, visit the EPA Docket Center homepage at *https://www.epa.gov/dockets.*

Docket: All documents in the docket are listed in the *https://www.regulations.gov* index. Although listed in the index, some information is not publicly available, *e.g.,* CUI or other information for which disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in *https://www.regulations.gov* or in hard copy at the OMS Docket, EPA/DC, WJC West Building, Room 3334, 1301 Constitution Ave. NW, Washington, DC 20460. The Public Reading Room is normally 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 OMS Docket is (202) 566–1752.

Temporary Hours During COVID–19

Out of an abundance of caution for members of the public and our staff, the EPA Docket Center and Reading Room are closed to the public, with limited exceptions, to reduce the risk of transmitting COVID–19. Our Docket Center staff will continue to provide remote customer service via email, phone, and webform. We encourage the public to submit comments via *https://www.regulations.gov/* or email, as there may be a delay in processing mail and faxes. Hand deliveries and couriers may be received by scheduled appointment only. For further information on EPA Docket Center services and the current status, please visit us online at *https://www.epa.gov/dockets.*

FOR FURTHER INFORMATION CONTACT: Marcella James, Office of Grants and Debarment, Office of Mission Support, Environmental Protection Agency, Ronald Reagan Building, Mail Code 3901R, 1300 Pennsylvania Avenue NW, Washington, DC 20460; telephone number, (202) 564–2572; email address, *James.Marcella@epa.gov.*

SUPPLEMENTARY INFORMATION: The Office of Mission Support is transitioning from a paper filing system under the Debarment and Suspension Files system of records to a new electronic case management system, Case Application for Debarment and Suspension (CADS). The EPA is accordingly modifying its system of records notice (SORN) EPA–33 in several respects.

First, the Office of Mission Support is updating the system name to Case Application for Debarment and Suspension (CADS).

Second, because all records in CADS are electronic instead of in paper form, the system location is modified to the physical location of the CADS computer storage devices in the EPA National Computer Center (NCC).

Third, the Office of Mission Support processes suspension and debarment case actions under the Federal Acquisition Regulation (FAR) Subpart 9.4 (procurement regulations) and 2 CFR part 180 and part 1532 (nonprocurement regulations). The Office of Mission Support also processes statutory exclusions under Clean Air Act section 306 and Clean Water Act section 508 and 2 CFR part 1532, subpart J. EPA–33 already includes individuals subject to suspension and debarment case actions under the procurement and nonprocurement regulations, but does not include statutory exclusions under Clean Air Act section 306 and Clean Water Act section 508. The Office of Mission Support is therefore modifying EPA–33 to include individuals subject to a statutory exclusion under the Clean Air Act or Clean Water Act as categories of individuals covered by the system, and to include statutory exclusion records as categories of records in the system and record source categories.

Fourth, the Office of Mission Support is also updating the routine uses of records maintained in EPA–33. The Office of Mission Support is modifying routine uses 1–5 as follows:

- For routine use 1, updating the exclusion database name to the System for Award Management (SAM) to reflect changes made by the General Services Administration (GSA) to the name of the exclusion list, and updating the nonprocurement regulation citation so that it is accurate.
- For routine use 2, adding statutory exclusions as a type of suspension and debarment proceeding, and re-numbering routine use 2 to routine use 3.
- For routine use 3, adding procurement transactions to the type of transactions relevant for an individual's eligibility determination, updating the nonprocurement regulation citation to 2 CFR part 180 and part 1532 because the EPA definition of covered transaction was moved from 40 CFR 32.200, and re-numbering routine use 3 to routine use 6.
- For routine use 4, re-numbering to routine use 7.
- For routine use 5, removing the disclosure of settlement agreements from the routine use because settlement agreements are now uploaded to the Federal Awardee Performance and Integrity Information System (FAPIIS) as discussed in new routine use 2, and re-numbering to routine use 8.

The general routine uses A, B, C, D, E, F, G, H, I, and K continue to apply to the system. The Office of Mission Support is adding new general routine uses L and M and the following new routine uses:

- A new routine use ''2'' for disclosing records to GSA in accordance with Section 872 of The Duncan Hunter National Defense Authorization Act of 2009 (Pub. L. 110–417) which requires the public disclosure of suspension and debarment administrative agreements in FAPIIS.
- A new routine use ''4'' for disclosing records to individual respondents and related respondents or the authorized representatives of related respondents. A respondent is a person against whom a suspension or debarment action has been initiated or may be initiated. The Office of Mission Support is adding a new routine use 4 to disclose records to any individual who is the subject of a suspension or debarment case action as an actual or potential respondent in a suspension and debarment matter. This routine use addresses situations where the Office of Mission Support discloses to a respondent his or her own records in a suspension and debarment matter. The new routine use 4 is also adding the disclosure of records to related respondents and authorized representatives of related respondents. This routine use addresses situations where the Office of Mission Support initiates a case action where individuals or other persons are involved in the same misconduct that is the action basis for the suspension or debarment matter and the records are disclosed to all the respondents in order to give them notice and an opportunity to respond to the suspension or debarment action. The Office of Mission Support proposes to disclose records to related respondents or their authorized representatives only when by careful review the Agency determines that the records are both relevant and necessary to the related respondent's suspension or debarment proceeding.
- A new routine use ''5'' for disclosing records to other federal agencies coordinating with the EPA in suspension and debarment case actions. The Office of Mission Support participates in a government-wide system for debarment and suspension from programs and activities involving federal financial and nonfinancial assistance and benefits. Because suspension and debarment actions have governmentwide effect, the Office of Mission Support engages in a lead agency coordination process when using a suspension or debarment remedy.

Fifth, the Office of Mission Support is modifying the policies and practices for storage, retrieval, and retention and disposal of records to describe those that apply to the use of electronic records in the new CADS system.

Sixth, the Office of Mission Support is modifying the administrative, technical, and physical safeguards to describe those that apply to the management of electronic records in the new CADS system.

Lastly, the Office of Mission Support is adding authorities for the maintenance of the system to include those relevant to electronic recordkeeping and to add relevant suspension and debarment regulations.

All other elements of EPA–33 will transfer to the modified system of records notice for Case Application for Debarment and Suspension. The system continues to be maintained by the Office of Mission Support, previously known as the Office of Administration and Resource Management.

SYSTEM NAME AND NUMBER:

Case Application for Debarment and Suspension, EPA–33

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

National Computer Center (NCC), 109 TW Alexander Drive, Research Triangle Park, Durham, NC 27711.

SYSTEM MANAGER(S):

Michael Osinski, Director, Office of Grants and Debarment, Office of Mission Support, Environmental Protection Agency, Ronald Reagan Building, Mailcode 3901R, 1300 Pennsylvania Avenue NW, Washington, DC 20460; telephone number, (202) 564–3792; email address, *Osinski.Michael@epa.gov.*

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Government Paperwork Elimination Act (Pub. L. 105–277, 44 U.S.C. 3504); 33 U.S.C. 1368; 42 U.S.C. 7606; Executive Order 11738, Providing for administration of the Clean Air Act and the Federal Water Pollution Control Act with respect to Federal contracts, grants, or loans (38 FR 25161, 3 CFR, 1971–1975 Comp., p. 799); Executive Order 12549, Debarment and Suspension (51 FR 6370, 3 CFR, 1986 Comp., p. 189); Executive Order 12689 (54 FR 34131, 3 CFR, 1989 Comp., p. 235); the Federal Acquisition Streamlining Act of 1994, Public Law 103–355, 31 U.S.C. 6101 note; 2 CFR part 180—the Office of Management and Budget Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement); 2 CFR part 1532—Nonprocurement Debarment and Suspension; and the Federal Acquisition Regulation, 48 CFR subpart 9.4—Debarment, Suspension, and Ineligibility.

PURPOSE(S) OF THE SYSTEM:

The purpose of CADS is to assist the Office of Mission Support in processing, investigating, and maintaining records relevant to suspension and debarment case actions. The Office of Mission Support utilizes suspension and debarment as an administrative tool to address waste, fraud, abuse, poor performance, environmental noncompliance or other misconduct by excluding individuals from participating in federal procurement or nonprocurement programs. The Office of Mission Support is also responsible for implementing a statutory debarment authority that arises by operation of law under the Clean Air Act section 306 or Clean Water Act section 508. This statutory debarment authority prohibits the Federal Government from entering into contracts or nonprocurement transactions at violating facilities unless and until the EPA Suspension and Debarment Official can certify that the conditions that gave rise to the Clean Air Act or Clean Water Act conviction have been corrected. This system of records also assists the Office of Mission Support in assembling information in order to conduct and document suspension and debarment proceedings; to ensure that federal contracts and federal assistance, loans, and benefits are awarded to responsible business entities and individuals; and to ensure the government conducts business with persons at facilities that are in compliance with the Clean Air Act or Clean Water Act.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

(1) Individuals who have been suspended, proposed for debarment, or debarred from federal procurement and assistance programs; (2) Individuals who have been the subject of agency inquiries to determine whether they should be debarred and/or suspended from federal procurement and assistance programs; and (3) Individuals who have been convicted and are subject to an exclusion by operation of law under Clean Air Act section 306 or Clean Water Act section 508.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records include information on individuals and firms excluded or considered for exclusion from federal acquisition or assistance programs as a result of suspension or debarment proceedings initiated by the EPA, or as a result of a statutory exclusion arising by operation of law upon conviction pursuant to Clean Air Act section 306 or Clean Water Act section 508. Such information includes, but is not limited to, names and residential addresses of individuals; email addresses of individuals; business addresses associated with individuals; phone numbers associated with individuals; evidence obtained in support of suspension and debarment case actions; records submitted by individuals or other persons (corporations, partnerships, associations, unit of governments, or legal entities, however organized, or their authorized representative); administrative agreements; audits of administrative agreements; and final decisions or reinstatement determinations. Examples of records include correspondence, inspection reports, memoranda of interviews, contracts, assistance agreements, indictments, judgment and conviction orders, plea agreements, and corporate information. Records such as court documents or reports from commercial databases may contain individuals' Social Security Numbers and dates of birth. Computer generated records include data and reports regarding categories and status of cases.

RECORD SOURCE CATEGORIES:

EPA and other federal officials, state and local officials, businesses and other entities who may have information relevant to an inquiry, individuals who have been statutorily excluded, suspended, proposed for debarment or debarred, and their authorized representatives.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:

The following routine uses apply to this system because the use of the record is necessary for the efficient conduct of government operations. The routine uses below are both related to and compatible with the original purpose for which the information was collected. The following general routine uses apply to this system (73 FR 2245):

A. Disclosure for Law Enforcement Purposes: Information may be disclosed to the appropriate federal, state, local, tribal, or foreign agency responsible for investigating, prosecuting, enforcing, or implementing a statute, rule, regulation, or order, if the information is relevant to a violation or potential violation of civil or criminal law or regulation within the jurisdiction of the receiving entity.

B. Disclosure Incident to Requesting Information: Information may be disclosed to any source from which additional information is requested (to the extent necessary to identify the individual, inform the source of the purpose of the request, and to identify the type of information requested,) when necessary to obtain information relevant to an agency decision concerning retention of an employee or other personnel action (other than hiring,) retention of a security clearance, the letting of a contract, or the issuance or retention of a grant, or other benefit.

C. Disclosure to Requesting Agency: Disclosure may be made to a federal, state, local, foreign, or tribal or other public authority of the fact that this system of records contains information relevant to the retention of an employee, the retention of a security clearance, the letting of a contract, or the issuance or retention of a license, grant, or other benefit. The other agency or licensing organization may then make a request supported by the written consent of the individual for the entire record if it so chooses. No disclosure will be made unless the information has been determined to be sufficiently reliable to support a referral to another office within the agency or to another federal agency for criminal, civil, administrative, personnel, or regulatory action.

D. Disclosure to Office of Management and Budget: Information may be disclosed to the Office of Management and Budget at any stage in the legislative coordination and clearance process in connection with private relief legislation as set forth in OMB Circular No. A–19.

E. Disclosure to Congressional Offices: Information may be disclosed to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of the individual.

F. Disclosure to Department of Justice: Information may be disclosed to the Department of Justice, or in a proceeding before a court, adjudicative body, or other administrative body before which the Agency is authorized to appear, when:

1. The Agency, or any component thereof;

2. Any employee of the Agency in his or her official capacity;

3. Any employee of the Agency in his or her individual capacity where the Department of Justice or the Agency have agreed to represent the employee; or

4. The United States, if the Agency determines that litigation is likely to affect the Agency or any of its components, is a party to litigation or has an interest in such litigation, and the use of such records by the Department of Justice or the Agency is deemed by the Agency to be relevant and necessary to the litigation provided, however, that in each case it has been determined that the disclosure is compatible with the purpose for which the records were collected.

G. Disclosure to the National Archives: Information may be disclosed to the National Archives and Records Administration in records management inspections.

H. Disclosure to Contractors, Grantees, and Others: Information may be disclosed to contractors, grantees, consultants, or volunteers performing or working on a contract, service, grant, cooperative agreement, job, or other activity for the Agency and who have a need to have access to the information in the performance of their duties or activities for the Agency. When appropriate, recipients will be required to comply with the requirements of the Privacy Act of 1974 as provided in 5 U.S.C. 552a(m).

I. Disclosures for Administrative Claims, Complaints and Appeals: Information from this system of records may be disclosed to an authorized appeal grievance examiner, formal complaints examiner, equal employment opportunity investigator, arbitrator or other person properly engaged in investigation or settlement of an administrative grievance, complaint, claim, or appeal filed by an employee, but only to the extent that the information is relevant and necessary to the proceeding. Agencies that may obtain information under this routine use include, but are not limited to, the Office of Personnel Management, Office of Special Counsel, Merit Systems Protection Board, Federal Labor Relations Authority, Equal Employment Opportunity Commission, and Office of Government Ethics.

K. Disclosure in Connection With Litigation: Information from this system of records may be disclosed in connection with litigation or settlement discussions regarding claims by or against the Agency, including public filing with a court, to the extent that disclosure of the information is relevant and necessary to the litigation or discussions and except where court orders are otherwise required under section (b)(11) of the Privacy Act of 1974, 5 U.S.C. 552a(b)(11).

The two routine uses below (L and M) are required by OMB Memorandum M–17–12:

L. Disclosure to Persons or Entities in Response to an Actual or Suspected Breach of Personally Identifiable Information: To appropriate agencies, entities, and persons when (1) the Agency suspects or has confirmed that there has been a breach of the system of records, (2) the Agency has determined that as a result of the suspected or confirmed breach there is a risk of harm to individuals, the Agency (including its information systems, programs, and operations), the Federal Government, or national security; and (3) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the Agency's efforts to respond to the suspected or confirmed breach or to prevent, minimize, or remedy such harm.

M. Disclosure to Assist Another Agency in Its Efforts to Respond to a Breach of Personally Identifiable Information: To another federal agency or federal entity, when the Agency determines that information from this system of records is reasonably necessary to assist the recipient agency or entity in (1) responding to a suspected or confirmed breach or (2) preventing, minimizing, or remedying the risk of harm to individuals, the recipient agency or entity (including its information systems, programs, and operations), the Federal Government, or national security, resulting from a suspected or confirmed breach.

Records may also be disclosed:

1. *Disclosure to the System for Award Management:* To the General Services Administration (GSA) to compile and maintain the System for Award Management (SAM) Exclusions list in accordance with FAR 9.404 and 2 CFR 180.500 and 180.505.

2. *Disclosure to the Federal Awardee Performance and Integrity Information System:* To the GSA for the Federal Awardee Performance and Integrity Information System (FAPIIS), which publicly discloses administrative agreements as required by Section 872 of The Duncan Hunter National Defense Authorization Act of 2009 (Pub. L. 110–417).

3. *Disclosure to the Individual Respondent:* To the individual person statutorily excluded, suspended, proposed for debarment, or debarred in EPA proceedings; to the individual person who has been the subject of agency inquiries to determine whether the individual person should be debarred and/or suspended from federal procurement and assistance programs; and to the authorized representatives of the individual person statutorily excluded, suspended, proposed for debarment or debarred in EPA proceedings.

4. *Disclosure to Other Respondents:* To persons (any individual, corporation, partnership, association, unit of government, or legal entity, however organized) who have been suspended, proposed for debarment, or debarred from federal procurement and assistance programs; persons who have been the subject of agency inquiries to determine whether they should be debarred and/or suspended from federal procurement and assistance programs; and to the authorized representatives of the persons in a suspension or debarment proceeding, when by careful review the Agency determines that the records are both relevant and necessary to the persons' suspension or debarment proceedings.

5. *Disclosure to Coordinating Federal Agencies:* To a federal agency coordinating with the EPA for an EPA suspension or debarment proceeding or having a suspension or debarment action involving the same person.

6. *Disclosure for Eligibility Determinations:* To a federal, state, or local agency, financial institution, or other entity to verify an individual's eligibility for engaging in federal procurement transactions or covered transactions as defined in FAR Subpart 9.4 and 2 CFR part 180.

7. *Disclosure to Requesting Agencies for Particular Purposes:* To federal, state, or local agencies, in response to requests or subpoenas, or otherwise, for the purpose(s) of: (a) Assisting them in administering federal acquisition, assistance, loan and benefit programs or regulatory programs, (b) assisting them in discharging their duties to ensure that federal contracts and assistance, loans, and benefit programs are awarded to responsible individuals and organizations, and (c) ensuring that federal, state or local regulatory responsibilities are met.

8. *Disclosure of Final Decisions:* To the public, upon request, and to publishers of computerized legal research systems, but such disclosures shall be limited to interim or final decisions.

POLICIES AND PRACTICES FOR STORAGE OF RECORDS:

The information collected within CADS is maintained and stored on computer storage devices physically located at NCC. These records are maintained electronically on computer storage devices such as computer tapes and disks. Backups will be maintained at a disaster recovery site. Computer records are maintained in a secure password protected environment. Access to computer records is limited to those who have a need to know. Permission level assignments will allow users access only to those functions for which they are authorized. All records are maintained in secure, access-controlled areas or buildings.

POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS:

Records are retrieved by business or organization name, by an individual's first or last name, by case number, or by file name.

POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS:

Records are retained in accordance with the EPA's Records Schedules 1016(c) and 0090(d) and disposed of under National Archives and Records Administration (NARA) disposal authority DAA–0412–2013–0015–0003.

ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:

Security controls used to protect personal sensitive data in CADS are commensurate with those required for an information system rated MODERATE for confidentiality, integrity, and availability, as prescribed in National Institute of Standards and Technology (NIST) Special Publication, 800–53, ''Security and Privacy Controls for Federal Information Systems and Organizations,'' Revision 5.

1. Administrative Safeguards: Personnel are instructed to lock their computer when they leave their desks. Personnel receive annual Information Security and Privacy Awareness training and are regularly reminded about appropriate personally identifiable information handling procedures. In addition to the Agency's Rules of Behavior and Privacy Act training that personnel undergo, CADS users are required to sign a Rules of Behavior document and a Request for Remote Access and Use of Sensitive Personally Identifiable Information document before they are granted access to CADS.

2. Technical Safeguards: Access to CADS is strictly controlled and is limited to those with an operational need to access the information. Access is granted and managed by CADS Administrators. Access to the EPA Virtual Private Network requires two-factor authentication accomplished by using Personal Identity Verification (PIV) cards that are issued to all personnel based on the requirements of Homeland Security Presidential Directive 12 (HSPD 12). Access to CADS is restricted to users on the EPA Virtual Private Network who have been granted permission by a CADS administrator to have access to CADS. CADS access is username and password protected.

3. Physical Safeguards: EPA employees and contractors involved in the management, design, development, implementation and execution of CADS will have monitored access to CADS. Only individuals who have the proper authorization and who perform functions related to CADS are allowed to access any information. Entry to the EPA facility and within the facility to specific spaces at the NCC is achieved using HSPD–12 PIV cards on door readers. PIV cards are only issued to personnel who have met EPA's initial security screening requirements. Security Guards at all entrances confirm that the PIV card is valid, unexpired and reflects the identity of the card holder. Entry to the server rooms is only available to personnel using their PIV cards on door readers, where those personnel have been approved for elevated access (meaning they have undergone a more rigorous security screening). The NCC maintains an Access Control List to ensure access to server rooms is limited to approved personnel only.

RECORD ACCESS PROCEDURES:

Individuals seeking access to information in this system of records about themselves are required to provide adequate identification (*e.g.,* driver's license, military identification card, employee badge or identification card). Additional identity verification procedures may be required, as warranted. Requests must meet the requirements of EPA regulations that implement the Privacy Act of 1974, at 40 CFR part 16.

CONTESTING RECORD PROCEDURES:

Requests for correction or amendment must identify the record to be changed and the corrective action sought. Complete EPA Privacy Act procedures are described in EPA's Privacy Act regulations at 40 CFR part 16.

NOTIFICATION PROCEDURE:

Individuals who want to know whether this system of records contains information about them should make a written request to the EPA, Attn: Agency Privacy Officer, MC 2831T, 1200 Pennsylvania Ave. NW, Washington, DC 20460, *privacy@epa.gov.*

EXEMPTIONS PROMULGATED FOR THE SYSTEM:

None.

HISTORY:

60 FR 51791 (October 3, 1995)—Creation of the ''Debarment and Suspension Files'' system of records.

67 FR 8246 (February 22, 2002)—Republication of Existing System of Records.

Vaughn Noga,

Senior Agency Official for Privacy.

[FR Doc. 2021–11756 Filed 6–3–21; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–10023–06–OMS]

Privacy Act of 1974; System of Records

AGENCY: Office of Mission Support, Environmental Protection Agency (EPA).

ACTION: Notice of a modified system of records.

SUMMARY: The U.S. Environmental Protection Agency's (EPA or Agency), Office of Mission Support (OMS) is giving notice that it proposes to modify a system of records pursuant to the provisions of the Privacy Act of 1974. The Integrated Grants Management System (IGMS) is being modified to update and modernize the grants management suite. These updates include amending the name to Integrated Grants Management System (IGMS)/Next Generation Grants System (NGGS) and informing the public that the grants management module originally in IGMS Lotus Notes is now in NGGS, which is a modern platform employing Java/Oracle technologies. IGMS and NGGS are computer systems that the Agency uses to process grant applications and issue grants to recipients. The Agency will also use IGMS (without NGGS) to process interagency agreements, which are assistance agreements between Federal agencies. This System of Records Notice (SORN) modification updates all SORN sections.

DATES: Persons wishing to comment on this system of records notice must do so by July 6, 2021. New routine uses for this modified system of records will be effective July 6, 2021.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–HQ–OMS–2020–0257, by one of the following methods:

Federal eRulemaking Portal: https://www.regulations.gov. Follow the online instructions for submitting comments.

Email: docket_oms@epa.gov. Include the Docket ID number in the subject line of the message.

Fax: 202–566–1752.

Mail: OMS Docket, Environmental Protection Agency, Mail Code: 2822T, 1200 Pennsylvania Ave. NW, Washington, DC 20460.

Hand Delivery: OMS Docket, EPA/DC, WJC West Building, Room 3334, 1301 Constitution Ave. NW, Washington, DC 20460. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. EPA–HQ–OMS–2020–0257. The EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *https://www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Controlled Unclassified Information (CUI) or other information for which disclosure is restricted by statute. Do not submit information that you consider to be CUI or otherwise protected through *https://www.regulations.gov.* The *https://www.regulations.gov* website is an ''anonymous access'' system for the EPA, which means the EPA will not know your identity or contact information. If you submit an electronic comment, the EPA recommends that you include your name and other contact information in the body of your comment. If the EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, the EPA may not be able to consider your comment. If you send an email comment directly to the EPA without going through *https://www.regulations.gov,* your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the internet. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about the EPA public docket, visit the EPA Docket Center homepage at *https://www.epa.gov/dockets.*

Docket: All documents in the docket are listed in the *https://www.regulations.gov* index. Although listed in the index, some information is not publicly available, *e.g.,* CUI or other information for which disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in *https://www.regulations.gov* or in hard copy at the OMS Docket, EPA/DC, WJC West Building, Room 3334, 1301 Constitution Ave. NW, Washington, DC 20460. The Public Reading Room is normally 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 OMS Docket is (202) 566–1752.

Temporary Hours During COVID–19

Out of an abundance of caution for members of the public and our staff, the EPA Docket Center and Reading Room are closed to the public, with limited exceptions, to reduce the risk of transmitting COVID–19. Our Docket Center staff will continue to provide remote customer service via email, phone, and webform. We encourage the public to submit comments via *https://www.regulations.gov* or email, as there may be a delay in processing mail and faxes. Hand deliveries and couriers may be received by scheduled appointment only. For further information on EPA Docket Center services and the current status, please visit us online at *https://www.epa.gov/dockets.*

FOR FURTHER INFORMATION CONTACT: William Etheredge, Office of Mission Support, Environmental Protection Agency, Ronald Reagan Building, Mail Code 3901R, 1200 Pennsylvania Avenue NW, Washington, DC 20460; email address, *etheredge.william@epa.gov,* telephone (202) 564–5353.

SUPPLEMENTARY INFORMATION: OMS is modifying the IGMS system of records to modernize the grants management suite. These updates include modernizing the grants module in NGGS that was originally in IGMS, while maintaining the interagency agreements functionality in IGMS. IGMS and NGGS are computer systems that the Agency uses to process grant applications and issue grants to recipients. As a result, the processing of grants may involve retrieval of information from both IGMS and NGGS. The Agency will use IGMS alone to process interagency agreements and thus will only retrieve information from IGMS for this purpose.

SYSTEM NAME AND NUMBER:

Integrated Grants Management System (IGMS)/Next Generation Grants System (NGGS), EPA–53.

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

National Computer Center (NCC), 109 TW Alexander Drive, Research Triangle Park, Durham, NC 27711.

SYSTEM MANAGER(S):

Michael Osinski, *osinski.michael@epa.gov* at 202–564–3792, Director,

Office of Grants and Debarment, Environmental Protection Agency, Ronald Reagan Building, Mail Code 3901R, 1200 Pennsylvania Avenue NW, Washington, DC 20460.

Bruce Binder, *binder.bruce@epa.gov* at 202–564–4935, Acting Deputy Director, Office of Grants and Debarment, Environmental Protection Agency, Ronald Reagan Building, Mail Code 3901R, 1200 Pennsylvania Avenue NW, Washington, DC 20460.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

US Environmental Protection Agency (EPA) Enterprise Information Management Policy (EIMP), CIO 2135.1, August 2019; Federal Grant and Cooperative Agreement Act, 31 U.S.C. 6301 et seq; Clean Air Act, 42 U.S.C. 7401 *et seq.;* Federal Water Pollution Control Act, 33 U.S.C. 1254 *et seq.;* Public Health Service Act, 42 U.S.C. 241 *et seq.;* Solid Waste Disposal Act, 42 U.S.C. 6901 *et seq.;* Federal Insecticide, Fungicide, and Rodenticide Act, 7 U.S.C. 136 *et seq.;* Safe Drinking Water Act, 42 U.S.C. 300j–1; Toxic Substances Control Act, 15 U.S.C. 2609; Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. 9660.

PURPOSE(S) OF THE SYSTEM:

EPA uses IGMS and NGGS to manage grants in response to solicitations issued by EPA program offices. EPA uses IGMS alone to process interagency agreements.

CATEGORIES OF INDIVIDUALS COVERED BY SYSTEM:

EPA employees, non-EPA Federal government personnel, State or local government personnel.

CATEGORIES OF RECORDS IN THE SYSTEM:

EPA uses IGMS and NGGS to collect and maintain information on applicants for EPA grants. This includes recipient organization names, names of grant applicants, phone numbers, emails, and addresses. EPA also uses IGMS to collect and maintain information on applicants for EPA interagency agreements. This includes recipient organization names, names of interagency agreement applicants, phone numbers, email, and addresses.

RECORD SOURCE CATEGORIES:

The sources of information come from recipient organizations, Federal, State or local agencies. This information is collected from grant and interagency agreement applicants for the EPA grants and interagency agreements programs within the agency.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:

The routine uses below are both related to and compatible with the original purpose for which the information was collected. The following general routine uses apply to this system (73 FR 2245):

A. Disclosure for Law Enforcement Purposes: Information may be disclosed to the appropriate Federal, State, local, tribal, or foreign agency responsible for investigating, prosecuting, enforcing, or implementing a statute, rule, regulation, or order, if the information is relevant to a violation or potential violation of civil or criminal law or regulation within the jurisdiction of the receiving entity.

B. Disclosure Incident to Requesting Information: Information may be disclosed to any source from which additional information is requested (to the extent necessary to identify the individual, inform the source of the purpose of the request, and to identify the type of information requested), when necessary to obtain information relevant to an agency decision concerning retention of an employee or other personnel action (other than hiring), retention of a security clearance, the letting of a contract, or the issuance or retention of a grant, or other benefit.

C. Disclosure to Requesting Agency: Disclosure may be made to a Federal, State, local, foreign, or tribal or other public authority of the fact that this system of records contains information relevant to the retention of an employee, the retention of a security clearance, the letting of a contract, or the issuance or retention of a license, grant, or other benefit. The other agency or licensing organization may then make a request supported by the written consent of the individual for the entire record if it so chooses. No disclosure will be made unless the information has been determined to be sufficiently reliable to support a referral to another office within the agency or to another Federal agency for criminal, civil, administrative, personnel, or regulatory action.

D. Disclosure to Office of Management and Budget: Information may be disclosed to the Office of Management and Budget at any stage in the legislative coordination and clearance process in connection with private relief legislation as set forth in OMB Circular No. A–19.

E. Disclosure to Congressional Offices: Information may be disclosed to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of the individual.

F. Disclosure to Department of Justice: Information may be disclosed to the Department of Justice, or in a proceeding before a court, adjudicative body, or other administrative body before which the Agency is authorized to appear, when:

1. The Agency, or any component thereof;
2. Any employee of the Agency in his or her official capacity;
3. Any employee of the Agency in his or her individual capacity where the Department of Justice or the Agency have agreed to represent the employee; or
4. The United States, if the Agency determines that litigation is likely to affect the Agency or any of its components,

Is a party to litigation or has an interest in such litigation, and the use of such records by the Department of Justice or the Agency is deemed by the Agency to be relevant and necessary to the litigation provided, however, that in each case it has been determined that the disclosure is compatible with the purpose for which the records were collected.

G. Disclosure to the National Archives: Information may be disclosed to the National Archives and Records Administration in records management inspections.

H. Disclosure to Contractors, Grantees, and Others: Information may be disclosed to contractors, grantees, consultants, or volunteers performing or working on a contract, service, grant, cooperative agreement, job, or other activity for the Agency and who have a need to have access to the information in the performance of their duties or activities for the Agency. When appropriate, recipients will be required to comply with the requirements of the Privacy Act of 1974 as provided in 5 U.S.C. 552a(m).

K. Disclosure in Connection With Litigation: Information from this system of records may be disclosed in connection with litigation or settlement discussions regarding claims by or against the Agency, including public filing with a court, to the extent that disclosure of the information is relevant and necessary to the litigation or discussions and except where court orders are otherwise required under section (b)(11) of the Privacy Act of 1974, 5 U.S.C. 552a(b)(11).

The two routine uses below (L and M) are required by OMB Memorandum M–17–12.

L. Disclosure to Persons or Entities in Response to an Actual or Suspected

Breach of Personally Identifiable Information: To appropriate agencies, entities, and persons when (1) the Agency suspects or has confirmed that there has been a breach of the system of records, (2) the Agency has determined that as a result of the suspected or confirmed breach there is a risk of harm to individuals, the Agency (including its information systems, programs, and operations), the Federal Government, or national security; and (3) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the Agency's efforts to respond to the suspected or confirmed breach or to prevent, minimize, or remedy such harm.

M. Disclosure to Assist Another Agency in Its Efforts to Respond to a Breach of Personally Identifiable Information: To another Federal agency or Federal entity, when the Agency determines that information from this system of records is reasonably necessary to assist the recipient agency or entity in (1) responding to a suspected or confirmed breach or (2) preventing, minimizing, or remedying the risk of harm to individuals, the recipient agency or entity (including its information systems, programs, and operations), the Federal Government, or national security, resulting from a suspected or confirmed breach.

POLICIES AND PRACTICES FOR STORAGE OF RECORDS:

These records are maintained electronically on computer storage devices such as computer tapes and disks. The computer storage devices are located at EPA National Computer Center in Research Triangle Park, 109 T.W. Alexander Drive, Durham, NC 27709. Backup will be maintained at a disaster recovery site. Computer records are maintained in a secure password protected environment. Access to computer records is limited to those who have a need to know. Permission-level assignments will allow users access only to those functions for which they are authorized. Paper records are located at Environmental Protection Agency facilities to include Regions 1–10 and Headquarters located at the Ronald Reagan Building, Mail Code 3901R, 1200 Pennsylvania Avenue NW, Washington, DC 20460. All records are maintained in secure, access-controlled areas or buildings.

POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS:

Electronic files may be retrieved by applicant/recipient organization names and EPA grants and interagency agreements contact names.

POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS:

Records are retained and disposed of in accordance with National Archives and Records Administration record retention schedules appropriate to the retention as well as EPA Record Schedule 0009.

ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:

Security controls used to protect personal sensitive data in IGMS/NGGS are commensurate with those required for an information system rated MODERATE for confidentiality, integrity, and availability, as prescribed in National Institute of Standards and Technology (NIST) Special Publication, 800–53, ''Security and Privacy Controls for Federal Information Systems and Organizations,'' Revision 5.

1. Administrative Safeguards: EPA personnel and contractors must complete annual Agency Information Security and Privacy Awareness training. EPA instructs its personnel and contractors to lock and secure their computers when they leave their desks.

2. Technical Safeguards: EPA restricts IGMS/NGGS electronic records to authorized users with appropriate security privileges, including the use of 2-factor PIV Card authentication.

3. Physical Safeguards: All records are maintained in secure, access-controlled areas or buildings. Identification cards are verified to ensure only authorized personnel have access. Paper records are maintained in locked file cabinets.

RECORD ACCESS PROCEDURES:

Individuals seeking access to information in this system of records about themselves are required to provide adequate identification (*e.g.,* driver's license, military identification card, employee badge or identification card). Additional identity verification procedures may be required, as warranted. Requests must meet the requirements of EPA regulations that implement the Privacy Act of 1974, at 40 CFR part 16.

CONTESTING RECORDS PROCEDURES:

Requests for correction or amendment must identify the record to be changed and the corrective action sought. Complete EPA Privacy Act procedures are described in EPA's Privacy Act regulations at 40 CFR part 16.

NOTIFICATION PROCEDURE:

Any individual who wants to know whether this system of records contains a record about him or her, should make a written request to the EPA, Attn: Agency Privacy Officer, MC 2831T, 1200 Pennsylvania Ave. NW, Washington, DC 20460, *privacy@epa.gov.*

EXEMPTIONS PROMULGATED FOR THE SYSTEM:

None.

HISTORY:

68 FR 68387—Posted on December 8, 2003.

Vaughn Noga,

Senior Agency Official for Privacy.

[FR Doc. 2021–11757 Filed 6–3–21; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[Docket No. CDC–2021–0055; NIOSH 232]

Board of Scientific Counselors, National Institute for Occupational Safety and Health (BSC, NIOSH), National Firefighter Registry Subcommittee

AGENCY: Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

ACTION: Notice of meeting and request for comment.

SUMMARY: In accordance with the Federal Advisory Committee Act, the CDC announces the following meeting of the Board of Scientific Counselors (BSC), National Institute for Occupational Safety and Health (NIOSH), National Firefighter Registry Subcommittee. This is a virtual meeting. It is open to the public, limited only by web conference seats (500 web conference seats are available). If you wish to attend, please register at the NIOSH website *https://www.cdc.gov/niosh/bsc/nfrs/registration.html* or call (404–498–2581) no later than August 6, 2021. Time will be available for public comment.

DATES: The meeting will be held on August 13, 2021, from 1:00 p.m. to 4:00 p.m., EDT. The public may submit comments from June 4, 2021 through August 6, 2021.

ADDRESSES: This is a virtual meeting. You may submit comments, identified by Docket No. CDC–2021–0055; NIOSH–232 by mail. CDC does not accept comments by email.

- *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments.
- *Mail:* Docket number CDC–2021–0055; NIOSH–232, c/o Sherri Diana, NIOSH Docket Office, National Institute

for Occupational Safety and Health, 1090 Tusculum Avenue, MS C–34, Cincinnati, Ohio 45226.

Instructions: All submissions received must include the Agency name and Docket Number. Written public comments received by August 6, 2021 will be provided to the BSC prior to the meeting. Docket number CDC–2021–0055; NIOSH–232 will close August 6, 2021.

FOR FURTHER INFORMATION CONTACT: Emily J.K. Novicki, M.A., M.P.H., Executive Secretary, BSC, NIOSH, CDC, 1600 Clifton Road NE, MS V24–4, Atlanta, Georgia 30329–4027, Telephone: (404) 498–2581; Email: *enovicki@cdc.gov*.

SUPPLEMENTARY INFORMATION:

Purpose: The Secretary, the Assistant Secretary for Health, and by delegation the Director, Centers for Disease Control and Prevention, are authorized under Sections 301 and 308 of the Public Health Service Act to conduct directly or by grants or contracts, research, experiments, and demonstrations relating to occupational safety and health and to mine health. The Board of Scientific Counselors, National Firefighter Registry Subcommittee (the Subcommittee) provides guidance to the Director, National Institute for Occupational Safety and Health on matters related to the National Firefighter Registry. Specifically, the Subcommittee provides guidance and professional input to the Board of Scientific Counselors (BSC) that will assist the BSC in advising the Director about NIOSH's efforts to establish and operate the National Firefighter Registry. The Subcommittee also provides guidance to the Board of Scientific Counselors (BSC) on the following issues pertaining to the ''required strategy'' as mandated by the Firefighter Cancer Registry Act of 2018 (the Act): (1) Increase awareness of the National Firefighter Registry and encouraging participation among all groups of firefighters, (2) consider data collection needs, (3) consider data storage and electronic access of health information, (4) in consultation with subject matter experts develop a method for estimating the number and type of fire incidents attended by a firefighter. Additional responsibilities of the Subcommittee are to provide guidance to the BSC regarding inclusion and the maintenance of data on firefighters as required by the Act.

Matters To Be Considered: The agenda for the meeting addresses issues related to: The National Firefighter Registry (NFR) protocol including functionality of the planned NFR enrollment system, security measures, high-level technology, and use cases applicable to stakeholders. Agenda items are subject to change as priorities dictate. An agenda is also posted on the NIOSH website *https://www.cdc.gov/niosh/bsc/nfrs/*.

Meeting Information: The virtual meeting is open to the public, limited only by web conference lines (500 web conference lines are available). Register at the NIOSH website *https://www.cdc.gov/niosh/bsc/nfrs/registration.html* or call (404–498–2581) no later than August 6, 2021.

Public Participation

Comments received are part of the public record and are subject to public disclosure. Do not include any information in your comment or supporting materials that you consider confidential or inappropriate for public disclosure. If you include your name, contact information, or other information that identifies you in the body of your comments, that information will be on public display. CDC will review all submissions and may choose to redact, or withhold, submissions containing private or proprietary information such as Social Security numbers, medical information, inappropriate language, or duplicate/near duplicate examples of a mass-mail campaign. CDC will carefully consider all comments submitted into the docket. CDC does not accept comment by email.

Procedures for Oral Public Comment: The public is welcome to participate during the public comment period, from 2:00 p.m. to 2:15 p.m., EDT, August 13, 2021. Please note that the public comment period ends at the time indicated above. Each commenter will be provided up to five minutes for comment. A limited number of time slots are available and will be assigned on a first come-first served basis. Members of the public who wish to address the NIOSH BSC are requested to contact the Executive Secretary for scheduling purposes (see **FOR FURTHER INFORMATION CONTACT** above).

Procedures for Written Public Comment: Written comments will also be accepted from those unable to attend the public session per the instructions provided in the address section above. Written comments received in advance of the meeting will be included in the official record of the meeting. Written comments received by August 6, 2021 will be provided to the BSC prior to the meeting. Docket number CDC–2021–0055; NIOSH–232 will close August 6, 2021.

The Director, Strategic Business Initiatives Unit, Office of the Chief Operating Officer, Centers for Disease Control and Prevention, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

Kalwant Smagh,

Director, Strategic Business Initiatives Unit, Office of the Chief Operating Officer, Centers for Disease Control and Prevention.

[FR Doc. 2021–11772 Filed 6–3–21; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Board of Scientific Counselors, National Center for Injury Prevention and Control (BSC, NCIPC)

AGENCY: Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, the CDC announces the following meeting for the Board of Scientific Counselors, National Center for Injury Prevention and Control, (BSC, NCIPC). This is a virtual meeting open to the public, limited by the capacity of the conference webinar which is 2,000 participants. Pre-registration is required by accessing the link at: *https://dceproductions.zoom.us/webinar/register/WN_vCTciAdyQIeDK5g3NfFPow*. There will be a public comment period from 2:15 p.m. to 4:15 p.m., EDT. The public is encouraged to register to provide public comment using the registration form available at the link provided in the meeting information section below.

DATES: The meeting will be held on July 16, 2021, from 10:00 a.m. to 4:50 p.m., EDT.

ADDRESSES: Zoom Virtual Meeting. If you would like to attend the virtual meeting, please pre-register by accessing the link at: *https://dceproductions.zoom.us/webinar/register/WN_vCTciAdyQIeDK5g3NfFPow*. Instructions to access the Zoom virtual meeting will be provided in the link following your registration.

Meeting Information: There will be a public comment period from 2:15 p.m. to 4:15 p.m., EDT. The public is encouraged to register to provide public comment using the registration form

available at the link provided: *https://www.surveymonkey.com/r/zgbg7qz*.

Individuals wishing to pre-register for public comment must do so by 5:00 p.m., EDT, Monday, July 12, 2021. Those pre-registering for public comment must also register for the meeting by accessing the link at: *https://dceproductions.zoom.us/webinar/register/WN_vCTciAdyQIeDK5g3NfFPow*. Individuals registered to provide public comment will be called upon first to speak based on the order of registration, followed by others from the public. All public comments will be limited to two (2) minutes per speaker.

Written comments must be received on or before July 23, 2021; *ncipcbsc@cdc.gov*. All written comments will be included as part of the meeting minutes.

FOR FURTHER INFORMATION CONTACT: Gwendolyn H. Cattledge, Ph.D., M.S.E.H., Deputy Associate Director for Science, NCIPC, CDC, 4770 Buford Highway NE, Mailstop S–1069, Atlanta, GA 30341–3717, Telephone: (770) 488–1430; Email: *ncipcbsc@cdc.gov*.

SUPPLEMENTARY INFORMATION:

Purpose: The Board will: (1) Conduct, encourage, cooperate with, and assist other appropriate public health authorities, scientific institutions, and scientists in the conduct of research, investigations, experiments, demonstrations, and studies relating to the causes, diagnosis, treatment, control, and prevention of physical and mental diseases, and other impairments; (2) assist States and their political subdivisions in preventing and suppressing communicable and non-communicable diseases and other preventable conditions and in promoting health and well-being; and (3) conduct and assist in research and control activities related to injury. The Board of Scientific Counselors makes recommendations regarding policies, strategies, objectives, and priorities; and reviews progress toward injury prevention goals and provides evidence in injury prevention-related research and programs. In addition, the Board provides advice on the appropriate balance of intramural and extramural research, the structure, progress, and performance of intramural programs. The Board is designed to provide guidance on extramural scientific program matters, including the: (1) Review of extramural research concepts for funding opportunity announcements; (2) conduct of Secondary Peer Review of extramural research grants, cooperative agreements, and contracts applications received in response to the funding opportunity announcements as it relates to the Center's programmatic balance and mission; (3) submission of secondary review recommendations to the Center Director of applications to be considered for funding support; (4) review of research portfolios; and (5) review of program proposals.

Matters To Be Considered: The agenda will include an update on the process and progress of the draft Guideline for Prescribing Opioids and discussion on the report from the BSC Opioid workgroup. Agenda items are subject to change as priorities dictate.

The Director, Strategic Business Initiatives Unit, Office of the Chief Operating Officer, Centers for Disease Control and Prevention, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

Kalwant Smagh,

Director, Strategic Business Initiatives Unit, Office of the Chief Operating Officer, Centers for Disease Control and Prevention.

[FR Doc. 2021–11771 Filed 6–3–21; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[Document Identifier CMS–1856]

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 August 3, 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: _____, 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 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–1856 Request for Certification in the Medicare/Medicaid Program for Provides of Outpatient Physical Therapy and/or Speech-Language Pathology

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:* Request for Certification in the Medicare/Medicaid Program for Provides of Outpatient Physical Therapy and/or Speech-Language Pathology; *Use:* The form is used as an application to be completed by providers of outpatient physical therapy and/or speech-language pathology services requesting participation in the Medicare and Medicaid programs. This form initiates the process of obtaining a decision as to whether the conditions of participation are met as a provider of outpatient physical therapy and/or speech-language pathology services. The form is used by the State Agencies (SAs) to enter the new prospective provider into the national surveyor database. The form is also used for recertification of the provider. Surveyors are no longer required to use form CMS–1856. Surveyors are now able to access survey resources electronically from the national surveyor database, as a result, the need for surveyors to carry printed copies of the survey information data is no longer efficient. *Form Number:* CMS–1856 (OMB control number: 0938–0065); *Frequency:* Annually, occasionally; *Affected Public:* Private sector—Business or other for-profit and Not-for-profit institutions; *Number of Respondents:* 195; *Total Annual Responses:* 195; *Total Annual Hours:* 49. (For policy questions regarding this collection contact Caecilia Blondiaux at 410–786–2190.)

Dated: June 1, 2021.

William N. Parham, III

Director, Paperwork Reduction Staff, Office of Strategic Operations and Regulatory Affairs.

[FR Doc. 2021–11774 Filed 6–3–21; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Proposed Information Collection Activity; Head Start REACH: Strengthening Outreach, Recruitment, and Engagement Approaches With Families (New Collection)

AGENCY: Office of Planning, Research, and Evaluation, Administration for Children and Families, HHS.

ACTION: Request for public comment.

SUMMARY: The Administration for Children and Families (ACF) within the U.S. Department of Health and Human Services (HHS) is proposing to collect data on different approaches that Head Start programs use for the recruitment, selection, enrollment, and retention (RSER) of families facing adversities and the community organizations with which it partners to support these activities. This study aims to present an internally valid description of RSER approaches used by six purposively selected programs, not to promote statistical generalization to different sites or service populations.

DATES: *Comments due within 60 days of publication.* In compliance with the requirements of the Paperwork Reduction Act of 1995, the Administration for Children and Families is soliciting public comment on the specific aspects of the information collection described above.

ADDRESSES: Copies of the proposed collection of information can be obtained and comments may be forwarded by emailing *OPREinfocollection@acf.hhs.gov*. Alternatively, copies can also be obtained by writing to the Administration for Children and Families, Office of Planning, Research, and Evaluation, 330 C Street SW, Washington, DC 20201, Attn: OPRE Reports Clearance Officer. All requests, emailed or written, should be identified by the title of the information collection.

SUPPLEMENTARY INFORMATION:

Description: The Head Start REACH: Strengthening Outreach, Recruitment, and Engagement Approaches with Families project is proposing to conduct qualitative case studies to examine the approaches used by Head Start programs to recruit, select, enroll, and retain families experiencing adversities and the implementation of these approaches, including supporting factors and barriers. Adversities is a broad term that refers to a wide range of circumstances or events that pose a threat to a child or caregiver's physical or psychological well-being. The adversities that families experience are often intertwined with poverty, may co-occur, and are affected by systematic factors, such as structural racism. Common examples include (but are not limited to) families experiencing homelessness; involvement in child welfare, including foster care; and affected by substance use, mental health issues, and domestic violence.

We will collect information from six sites; each site will include (1) a Head Start program that has demonstrated success in the RSER of families experiencing adversities, and (2) up to four of its community partner organizations that serve families experiencing adversities.

We will collect information on how programs determine which adversities to focus on for their RSER efforts; RSER approaches programs use, focusing specifically on families experiencing adversities; RSER-related training and support that Head Start staff receive; partnerships that programs form with organizations in the community to support these activities; and supporting factors and barriers to participation of enrolled and non-enrolled families who face adversities.

Respondents: Head Start program directors; Head Start staff conducting eligibility, recruitment, selection, enrollment, attendance (ERSEA) activities; staff from community organizations with which Head Start programs partner for ERSEA activities; Head Start-eligible parents enrolled in Head Start, and those not enrolled in Head Start.

ANNUAL BURDEN ESTIMATES

Instrument	Number of respondents (total over request period)	Number of responses per respondent (total over request period)	Average burden per response (in hours)	Total/annual burden (in hours)
Program director recruitment call protocol (Instrument 1)	6	1	0.50	3.0
Program staff interview protocol: Program director (Instrument 2) [a]	6	1	1.0	6.0
Program staff interview protocol ERSEA staff (Instrument 2) [a]	24	1	1.5	36
Head Start enrolled families focus group guide (Instrument 3)	60	1	1.5	90
Community partner recruitment call protocol (Instrument 4)	24	1	0.17	4.0
Community partner staff interview protocol (Instrument 5)	24	1	0.75	18
Community partner focus group coordination [b]	6	1	2.0	12
Families not enrolled in Head Start focus group guide (Instrument 6)	60	1	1.5	90

[a] There is one interview protocol for both the program director and the ERSEA staff and the interviewer will tailor it to the respondent(s).
[b] There is no instrument, only a document of duties associated with this activity.

Estimated Total Annual Burden Hours: 259

Comments: The Department specifically requests comments on (a) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted within 60 days of this publication.

Authority: Head Start Act Section 640 [42 U.S.C. 9835].

Mary B. Jones,

ACF/OPRE Certifying Officer.

[FR Doc. 2021–11777 Filed 6–3–21; 8:45 am]

BILLING CODE 4184–22–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Community Living

Intent To Award 54 Single-Source Supplements for Current Senior Medicare Patrol (SMP) State Grantee

ACTION: Notice of single-source supplements.

SUMMARY: The Administration for Community Living (ACL) announces the intent to award 54 administrative supplements in the form of cooperative agreements to existing SMP project grantees to further support SMP activities in each state, the District of Columbia, Guam, Puerto Rico, and the U.S. Virgin Islands. The purpose of existing grantees' work is to empower and assist Medicare beneficiaries, their families, and caregivers to prevent, detect, and report health care fraud, errors, and abuse through outreach, counseling, and education with an emphasis on reaching Medicare beneficiaries with limited income and those residing in rural areas. The administrative supplements for FY 2021 will be distributed via formula to the existing 54 SMP state grantees, bringing the total for the supplement awards to $2,002,468. These current SMP grantees will use this funding to further enhance or expand existing and prior established plans to empower and assist Medicare beneficiaries, their families, and caregivers to prevent, detect, and report health care fraud, errors, and abuse through outreach, counseling, and education. This additional funding will be targeted to reach Medicare beneficiaries with limited income, and/or those residing in rural areas.

FOR FURTHER INFORMATION CONTACT: For further information or comments regarding this program supplement, contact Marissa Whitehouse, U.S. Department of Health and Human Services, Administration for Community Living, Center for Integrated Programs, Office of Healthcare Information and Counseling; telephone (202) 795–7425; email *Marissa.Whitehouse@acl.hhs.gov.*

SUPPLEMENTARY INFORMATION:

Program Name: Senior Medicare Patrol (SMP).

Recipient: 54 current SMP grantees.

Current grantee	State	FY21 ACL recommended supplement amount
Alabama Dept of Senior Services	Alabama	$41,488
Alaska Department of Health and Social Services	Alaska	4,408
Arizona Department of Economic Security	Arizona	32,105
Arkansas Department of Human Services	Arkansas	36,963
California Health Advocates	California	170,823
Colorado Division of Insurance	Colorado	22,047
The Department of Rehabilitation Services	Connecticut	16,044
Delaware Division of Social Services	Delaware	4,199
Legal Counsel For The Elderly	District of Columbia	2,658
Florida Department of Elder Affairs	Florida	116,372
Eqhealth Solutions, Inc	Georgia	59,236
Guam Department of Public Health & Social Services	Guam	1,318
Hawaii Department of Health	Hawaii	10,665
Idaho Commission on Aging	Idaho	12,481
AgeOptions, Inc	Illinois	65,894

Current grantee	State	FY21 ACL recommended supplement amount
IAAAA Education Institute, Inc	Indiana	45,349
Iowa Department of Commerce	Iowa	26,115
Kansas Department for Aging and Disability Services	Kansas	18,494
Louisville-Jefferson County Metro Government	Kentucky	46,755
Eqhealth Solutions, Inc	Louisiana	34,011
Maine Department of Health and Human Services	Maine	13,962
Aging, Maryland Department of	Maryland	21,364
Elder Services of The Merrimack Valley Inc	Massachusetts	32,656
MMAP Inc	Michigan	63,145
Minnesota Department of Human Services	Minnesota	33,924
Eqhealth Solutions, Inc	Mississippi	34,405
District III Area Agency on Aging	Missouri	45,870
Missoula Aging Services	Montana	12,067
Insurance, Nebraska Department of	Nebraska	13,080
State of Nevada Aging and Disability Services Division	Nevada	14,798
New Hampshire Dept of Health and Human Services	New Hampshire	10,893
Jewish Family & Vocational Service of Middlesex County, Inc	New Jersey	34,929
Aging & Long-Term Services Department, New Mexico	New Mexico	16,806
NY Statewide Senior Action Council, Inc	New York	122,593
North Carolina Department of Insurance	North Carolina	78,824
Minot State University	North Dakota	5,558
Pro Seniors Inc	Ohio	76,984
Oklahoma State Insurance Department	Oklahoma	29,996
DHS Office of Financial Services	Oregon	23,257
Center for Advocacy for the Rights and Interests of the Elderly	Pennsylvania	80,868
Hispanic-American Institute, Inc	Puerto Rico	69,909
Rhode Island Dept of Elderly Affairs	Rhode Island	5,334
South Carolina Department on Aging	South Carolina	38,362
South Dakota Department of Human Services	South Dakota	7,419
Upper Cumberland Development District	Tennessee	54,777
Better Business Bureau Educational Foundation	Texas	134,139
Legal Services of Virgin Islands Inc	U.S. Virgin Islands	1,980
Human Services, Utah Department of	Utah	10,035
Community of Vermont Elders	Vermont	7,973
Virginia Association of Area Agencies on Aging	Virginia	45,083
Washington State Insurance Commissioner	Washington	30,651
Senior Services West Virginia Bureau	West Virginia	20,356
Greater Wisconsin Agency on Aging Resources, Inc	Wisconsin	37,286
Wyoming Senior Citizens, Inc	Wyoming	5,760

Period of Performance: The award will be issued for the Fiscal Year 2021 project period of June 1, 2021 through May 31, 2022.

Total Award Amount: $2,002,468 total in FY 2021.

Award Type: Cooperative Agreement.

Statutory Authority: The statutory authority is contained in the HIPAA of 1996 (Pub. L. 104–191).

Basis for Award: With the final FY 2021 appropriation, Congress established the new baseline for the SMP program, setting the minimum ACL will receive to support this program to $20 million annually. This is an increase of $2 million over the amount ACL received for SMP historically. The additional funding is intended to expand and enhance current SMP activities with the purpose of reaching more Medicare beneficiaries. As such, OHIC is proposing to distribute the additional funding to the existing SMP state grantees to establish new baseline funding amounts for each of the state projects.

The current SMP state grantees are funded to carry out the SMP Project mission for the period of June 1, 2018 through May 31, 2023. Much work has already been completed and further tasks are currently being accomplished. It would be unnecessarily time consuming and disruptive to the SMP program, and the beneficiaries being served, for ACL to establish new grantees at this time. The current grantees are providing critical services in an efficient and successful manner. These administrative supplements will allow the SMP state grantees to expand their current work in empowering Medicare beneficiaries, their families, and caregivers to prevent, detect, and report health care fraud, errors, and abuse through outreach, counseling, and education with a particular emphasis on reaching Medicare beneficiaries with limited income and those residing in rural areas. The existing SMP state grantees are uniquely placed to continue and expand this work. Since 2018, and for years before for many repeat grantees, current grantees have been the proven state and community presence for preventing, detecting, and reporting Medicare fraud. There is one SMP state grantee project in each of the 50 States, the District of Columbia, Puerto Rico, Guam, and the U.S. Virgin Islands. In 2019, the most up-to-date complete year of data, the 54 SMP projects had a total of 6,875 active team members who conducted a total of 28,146 group outreach and education events, reaching an estimated 1.6 million people. In addition, the projects had 320,590 individual interactions with, or on behalf of, a Medicare beneficiary. For 2019, the SMP projects reported $2.4 million in expected Medicare recoveries. This program has successfully operated since its inception 23 years ago. Current grantees are closely monitored and are successfully

meeting all programmatic goals under the current SMP grant.

Dated: May 26, 2021.

Alison Barkoff,

Acting Administrator and Assistant Secretary for Aging.

[FR Doc. 2021–11779 Filed 6–3–21; 8:45 am]

BILLING CODE 4154–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2020–D–2024]

Enhanced Drug Distribution Security at the Package Level Under the Drug Supply Chain Security Act; Draft Guidance for Industry; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of availability.

SUMMARY: The Food and Drug Administration (FDA or Agency) is announcing the availability of a draft guidance for industry entitled ''Enhanced Drug Distribution Security at the Package Level Under the Drug Supply Chain Security Act.'' The Drug Supply Chain Security Act (DSCSA) outlines critical enhanced drug distribution security requirements for building an electronic, interoperable system by November 27, 2023, that will identify and trace certain prescription drugs at the package level as they are distributed within the United States. This draft guidance clarifies these requirements and provides recommendations on the system attributes necessary to enable the secure tracing of product at the package level, including allowing for the use of verification, inference, and aggregation, as necessary.

DATES: Submit either electronic or written comments on the draft guidance by August 3, 2021 to ensure that the Agency considers your comment on this draft guidance before it begins work on the final version of the guidance.

ADDRESSES: You may submit comments on any guidance at any time as follows:

Electronic Submissions

Submit electronic comments in the following way:

• *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to *https://www.regulations.gov* will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on *https://www.regulations.gov.*

• If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see ''Written/Paper Submissions'' and ''Instructions'').

Written/Paper Submissions

Submit written/paper submissions as follows:

• *Mail/Hand Delivery/Courier (for written/paper submissions):* Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

• For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in ''Instructions.''

Instructions: All submissions received must include the Docket No. FDA–2020–D–2024 for ''Enhanced Drug Distribution Security at the Package Level Under the Drug Supply Chain Security Act.'' Received comments will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *https://www.regulations.gov* or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday, 240–402–7500.

• Confidential Submissions—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *https://www.regulations.gov.* Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *https://www.govinfo.gov/content/pkg/FR-2015-09-18/pdf/2015-23389.pdf.*

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to *https://www.regulations.gov* and insert the docket number, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852, 240–402–7500.

You may submit comments on any guidance at any time (see 21 CFR 10.115(g)(5)).

Submit written requests for single copies of this draft guidance to the Division of Drug Information, Center for Drug Evaluation and Research, Food and Drug Administration, 10001 New Hampshire Ave., Hillandale Building, 4th Floor, Silver Spring, MD 20993–0002, or to the Office of Communication, Outreach and Development, Center for Biologics Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 71, Rm. 3128, Silver Spring, MD 20993–0002. Send one self-addressed adhesive label to assist that office in processing your requests. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the draft guidance document.

FOR FURTHER INFORMATION CONTACT: Abha Kundi, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Silver Spring, MD 20993–0002, 301–796–3130, *drugtrackandtrace@fda.hhs.gov* or Stephen Ripley, Center for Biologics Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 71, Rm. 7301, Silver Spring, MD 20993–0002, 240–402–7911.

SUPPLEMENTARY INFORMATION:

I. Background

FDA is announcing the availability of a draft guidance for industry entitled ''Enhanced Drug Distribution Security at the Package Level Under the Drug Supply Chain Security Act.''

The DSCSA (Title II of Pub. L. 113–54) was signed into law on November 27, 2013. The DSCSA outlines critical steps for building an electronic, interoperable system by November 27, 2023, that will identify and trace certain prescription drugs as they are distributed within the United States. Section 202 of the DSCSA added section 582 to the FD&C Act (21 U.S.C. 360eee–1), which established product tracing, product identifier, authorized trading partner, and verification requirements for manufacturers, repackagers, wholesale distributors, and dispensers to facilitate the tracing of products through the pharmaceutical distribution supply chain. Section 582 of the FD&C Act also imposed requirements for enhanced drug distribution security that go into effect on November 27, 2023.

Trading partners, along with Federal and State authorities, have a role in ensuring the quality of prescription drugs and protecting the integrity of the pharmaceutical distribution supply chain. The DSCSA requirements, which have been phased in since 2013, improve the oversight of trading partners in the supply chain that are involved in the manufacturing, repackaging, wholesale distribution, warehousing or logistical activities, or dispensing of prescription drugs. The gradual implementation of the DSCSA requirements for product tracing, product identification, authorized trading partners, and verification facilitates the development of an electronic, interoperable system to enhance the security of the pharmaceutical distribution supply chain.

Section 582(g)(1) of the FD&C Act sets forth the general requirements for enhanced drug distribution security, including:

- The exchange of transaction information and transaction statements in a secure, interoperable, electronic manner;
- transaction information that includes the product identifier at the package level for each package included in the transaction;
- systems and processes for verification of product at the package level; and
- systems and processes needed to promptly respond in the event of a recall or to investigate suspect and illegitimate products.

This draft guidance clarifies the enhanced drug distribution requirements and describes recommendations for system attributes necessary for enhanced product tracing and enhanced verification, including when the use of aggregation and inference may be appropriate.

This draft guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). This draft guidance, when finalized, will represent the current thinking of FDA on enhanced drug distribution security at the package level under the DSCSA. It does not establish any rights for any person and is not binding on FDA or the public. You can use an alternative approach if it satisfies the requirements of the applicable statutes and regulations.

II. Paperwork Reduction Act of 1995

While this draft guidance contains no collection of information, it does refer to previously approved FDA collections of information. Therefore, clearance by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501–3521) is not required for this guidance. The previously approved collections of information are subject to review by OMB under the PRA. The collections of information in 21 CFR 211.132 for tamper-evident packaging of a drug product have been approved under OMB control number 0910–0139. The collections of information in 21 CFR 201.57 for establishing anticounterfeiting technologies, such as physical-chemical identifiers, have been approved under 0910–0572. The collections of information for identifying suspect drug product have been approved under OMB control number 0910–0806. The collections of information for establishing: (1) An electronic, interoperable system and (2) system attributes necessary for enabling the secure tracing of drug product have been approved under OMB control number 0910–0859.

III. Electronic Access

Persons with access to the internet may obtain the draft guidance at *https://www.fda.gov/drugs/guidance-compliance-regulatory-information/guidances-drugs, https://www.fda.gov/vaccines-blood-biologics/guidance-compliance-regulatory-information-biologics,* or *https://www.regulations.gov.*

Dated: May 26, 2021.

Lauren K. Roth,

Acting Principal Associate Commissioner for Policy.

[FR Doc. 2021–11734 Filed 6–3–21; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2014–D–0609]

Drug Supply Chain Security Act Implementation: Identification of Suspect Product and Notification; Guidance for Industry; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of availability.

SUMMARY: The Food and Drug Administration (FDA or Agency) is announcing the availability of a final guidance for industry entitled ''Drug Supply Chain Security Act Implementation: Identification of Suspect Product and Notification.'' The guidance addresses provisions in the Federal Food, Drug, and Cosmetic Act (FD&C Act), as amended by the Drug Supply Chain Security Act (DSCSA). The guidance is intended to aid certain trading partners (manufacturers, repackagers, wholesale distributors, and dispensers) in identifying a suspect product and specific scenarios that could significantly increase the risk of a suspect product entering the pharmaceutical distribution supply chain. The guidance also describes how trading partners should notify FDA of illegitimate product and sets forth a process for terminating notifications of illegitimate product in consultation with FDA. In addition, this guidance describes when manufacturers should notify FDA of a high risk that a product is illegitimate. This guidance responds to comments from stakeholders in order to clarify certain points and finalizes the remaining draft portion of the final guidance for industry entitled ''Drug Supply Chain Security Act Implementation: Identification of Suspect Product and Notification,'' issued in December 2016.

DATES: The announcement of the guidance is published in the **Federal Register** on June 4, 2021.

ADDRESSES: You may submit either electronic or written comments on Agency guidances at any time as follows:

Electronic Submissions

Submit electronic comments in the following way:

- *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to *https://www.regulations.gov* will be posted to the docket unchanged. Because your

comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on *https://www.regulations.gov.*

• If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see ''Written/Paper Submissions'' and ''Instructions'').

Written/Paper Submissions

Submit written/paper submissions as follows:

• *Mail/Hand Delivery/Courier (for written/paper submissions):* Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

• For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in ''Instructions.''

Instructions: All submissions received must include the Docket No. FDA–2014–D–0609 for ''Drug Supply Chain Security Act Implementation: Identification of Suspect Product and Notification; Guidance for Industry; Availability.'' Received comments will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *https://www.regulations.gov* or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday, 240–402–7500.

• Confidential Submissions—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *https://www.regulations.gov.* Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *https://www.govinfo.gov/content/pkg/FR-2015-09-18/pdf/2015-23389.pdf.*

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to *https://www.regulations.gov* and insert the docket number, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852, 240–402–7500.

You may submit comments on any guidance at any time (see 21 CFR 10.115(g)(5)).

Submit written requests for single copies of this guidance to the Division of Drug Information, Center for Drug Evaluation and Research, Food and Drug Administration, 10001 New Hampshire Ave., Hillandale Building, 4th Floor, Silver Spring, MD 20993–0002. Send one self-addressed adhesive label to assist that office in processing your requests. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the guidance document.

FOR FURTHER INFORMATION CONTACT: Sarah Venti, Office of Compliance, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Silver Spring, MD 20993–0002, 301–796–3130, *drugtrackandtrace@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

FDA is announcing the availability of a guidance for industry entitled ''Drug Supply Chain Security Act Implementation: Identification of Suspect Product and Notification.'' The guidance addresses provisions in the FD&C Act, as amended by the DSCSA (Pub. L. 113–54). Section 202 of the DSCSA adds section 582(h)(2) to the FD&C Act (21 U.S.C. 360eee–1(h)(2)), which requires FDA to issue guidance to aid certain trading partners (manufacturers, repackagers, wholesale distributors, and dispensers) in identifying a suspect product and terminating notifications. The guidance identifies specific scenarios that could significantly increase the risk of a suspect product entering the pharmaceutical distribution supply chain and provides recommendations on how trading partners can identify such product and determine whether the product is a suspect product as soon as practicable.

Beginning January 1, 2015, section 582 of the FD&C Act required trading partners, upon determining that a product in their possession or control is illegitimate, to notify: (1) FDA and (2) all immediate trading partners that they have reason to believe may have received the illegitimate product, not later than 24 hours after making the determination. Manufacturers are additionally required under section 582(b)(4)(B)(ii)(II) of the FD&C Act to notify FDA and any immediate trading partners that the manufacturer has reason to believe may possess a product manufactured by (or purported to be manufactured by) the manufacturer, not later than 24 hours after the manufacturer determines or is notified by FDA or a trading partner that there is a high risk that a product is illegitimate. The guidance also addresses how trading partners should notify FDA using Form FDA 3911. In addition, in accordance with section 582(h)(2) of the FD&C Act, the guidance sets forth the process by which trading partners must terminate the notifications using Form FDA 3911, in consultation with FDA, regarding illegitimate product and, for a manufacturer, a product with a high risk of illegitimacy, under section 582(b)(4)(B), (c)(4)(B), (d)(4)(B), and (e)(4)(B) of the FD&C Act.

This guidance finalizes the remaining draft portion of the guidance for industry entitled ''Drug Supply Chain Security Act Implementation: Identification of Suspect Product and Notification,'' issued in December 2016. In particular, this guidance finalizes section III.C, which was issued for comment purposes in the December 2016 guidance. This guidance will now be final in its entirety and replaces the December 2016 guidance.

In **Federal Register** of June 11, 2014 (79 FR 33564), FDA announced the availability of a draft guidance entitled ''Drug Supply Chain Security Act Implementation: Identification of Suspect Product and Notification.'' In response to comments received on that guidance, in the **Federal Register** of December 9, 2016 (81 FR 89112) FDA announced the availability of a guidance

of the same title. This guidance was published as a final guidance for industry with the exception of Section C entitled ''For Manufacturers: High Risk of Illegitimacy Notifications''. This new section was published as a draft guidance for industry and was added in response to comments and questions received about the 2014 guidance. In addition, based on comments on the 2014 guidance, Form FDA 3911, and the instructions for completing the form, were slightly revised.

FDA received comments on the 2016 guidance from various stakeholders (*e.g.,* pharmacy groups, wholesale distributor trade groups). In response to these comments, FDA has made some changes for clarity to the December 2016 version of the guidance. The changes include: Clarifying what FDA believes an ''immediate trading partner'' to be; replacing ''suspicious'' with ''questionable'' throughout the document; deleting the reference to ''pedigree'' in section III.A.1; clarifying that trading partners should consider whether product has been subject to a public alert or announcement of drug quality when considering scenarios that could increase the chances that a suspect product could enter the supply chain; in section III.B, clarifying that FDA's recommendations apply only ''as applicable'' to the individual trading partners; clarifying that trading partners only work with *authorized* trading partners in section III.B; and stating that trading partners should consult with manufacturers when conducting an investigation of suspect product.

In response to stakeholder comments, FDA has also made some changes to the newly final section, III.C. These include: Clarifying that while manufacturers need not notify FDA of suspect product, they must do so if the circumstances surrounding the suspect product include at least one of three types of high risk factors; clarifying that manufacturers can learn of product with a high risk of illegitimacy either through their own investigation of suspect product, or through information they receive from a variety of other sources, including from within their own company, from their trading partners, from the FDA, or from other domestic and/or foreign regulatory authorities; clarifying that a manufacturer must make a notification to FDA where it is investigating the validity of the claim that a product has been stolen or diverted, and the manufacturer has reason to believe that an immediate trading partner has the potentially stolen or diverted product in its possession; and clarifying that while not a requirement, FDA does suggest that manufacturers inform trading partners of ''specific high risk[s]''.

Finally, while FDA received a few comments on section IV of this guidance, which addresses notifications for illegitimate products and products with a high risk of illegitimacy, along with termination of those notifications, FDA did not incorporate the feedback from comments on response times because we feel that a 10-day response time is a reasonable amount of time for the Agency to review and evaluate such requests for the termination of notification of illegitimate product. Similarly, FDA did not add language on disclosure because the information submitted to FDA using Form FDA 3911 is treated like all other records obtained by FDA in regard to disclosure. FDA did make some revisions for clarity however, which include adding a brief discussion and footnote to FDA's guidance document *Definitions of Suspect Product and Illegitimate Product for Verification Obligations Under the Drug Supply Chain Security Act.* In addition, editorial changes were made throughout the entire guidance for clarity and references to section III.C being published for comment purposes only were removed.

This guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). The guidance represents the current thinking of FDA on ''Drug Supply Chain Security Act Implementation: Identification of Suspect Product and Notification.'' It does not establish any rights for any person and, with the exception of section IV.B, is not binding on FDA or the public. You can use an alternative approach if it satisfies the requirements of the applicable statutes and regulations.

As noted, section IV.B of this guidance, which sets forth the process by which trading partners must terminate notifications of illegitimate product and products with a high risk of illegitimacy in consultation with FDA, has binding effect, where indicated by the use of the words *must, shall,* or *required.* Such binding effect is authorized by section 582(h)(2)(A) of the FD&C Act, wherein Congress granted authorization to FDA to implement the process for terminating notifications of illegitimate product in consultation with FDA through guidance.

II. Paperwork Reduction Act of 1995

While this guidance contains no collection of information, it does refer to previously approved FDA collections of information. Therefore, clearance by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501–3521) is not required for this guidance. The previously approved collections of information are subject to review by OMB under the PRA. The collection of information in this guidance has been approved under OMB control number 0910–0806.

III. Electronic Access

Persons with access to the internet may obtain the guidance at *https://www.fda.gov/Drugs/GuidanceComplianceRegulatoryInformation/Guidances/default.htm, https://www.fda.gov/BiologicsBloodVaccines/GuidanceComplianceRegulatoryInformation/Guidances/default.htm,* or *https://www.regulations.gov.*

Dated: May 26, 2021.

Lauren K. Roth,

Acting Principal Associate Commissioner for Policy.

[FR Doc. 2021–11732 Filed 6–3–21; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2018–D–0338]

Definitions of Suspect Product and Illegitimate Product for Verification Obligations Under the Drug Supply Chain Security Act; Draft Guidance for Industry; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of availability.

SUMMARY: The Food and Drug Administration (FDA or Agency) is announcing the availability of a revised draft guidance for industry entitled ''Definitions of Suspect Product and Illegitimate Product for Verification Obligations Under the Drug Supply Chain Security Act.'' The draft guidance is intended to help industry better understand the definitions of ''suspect'' and ''illegitimate'' product as defined in the Drug Supply Chain Security Act (DSCSA). The draft guidance lays out FDA's current understanding of the following key terms used to define ''suspect'' and ''illegitimate'' product: ''Counterfeit,'' ''diverted,'' ''stolen,'' ''fraudulent transaction,'' and ''unfit for distribution.'' This revised draft guidance clarifies certain points of the draft guidance for industry ''Definitions of Suspect Product and Illegitimate Product for Verification Obligations Under the Drug Supply Chain Security Act'' issued in March 2018 (March 2018

draft guidance), including FDA's current understanding of the term ''stolen.''

DATES: Although you can comment on any guidance at any time (see 21 CFR 10.115(g)(5)), to ensure that the Agency considers your comment on this draft guidance before it begins work on the final version of the guidance, submit either electronic or written comments on the draft guidance by August 3, 2021.

ADDRESSES: You may submit comments on any guidance at any time as follows:

Electronic Submissions

Submit electronic comments in the following way:

• *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to *https://www.regulations.gov* will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on *https://www.regulations.gov.*

• If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see ''Written/Paper Submissions'' and ''Instructions'').

Written/Paper Submissions

Submit written/paper submissions as follows:

• *Mail/Hand Delivery/Courier (for written/paper submissions):* Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

• For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in ''Instructions.''

Instructions: All submissions received must include the Docket No. FDA–2018–D–0338 for ''Definitions of Suspect Product and Illegitimate Product for Verification Obligations Under the Drug Supply Chain Security Act; Draft Guidance for Industry; Availability.'' Received comments will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *https://www.regulations.gov* or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday, 240–402–7500.

• Confidential Submissions—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *https://www.regulations.gov.* Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *https://www.govinfo.gov/content/pkg/FR-2015-09-18/pdf/2015-23389.pdf.*

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to *https://www.regulations.gov* and insert the docket number, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852, 240–402–7500.

You may submit comments on any guidance at any time (see 21 CFR 10.115(g)(5)).

Submit written requests for single copies of this guidance to the Division of Drug Information, Center for Drug Evaluation and Research, Food and Drug Administration, 10001 New Hampshire Ave., Hillandale Building, 4th Floor, Silver Spring, MD 20993–0002. Send one self-addressed adhesive label to assist that office in processing your requests. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the guidance document.

FOR FURTHER INFORMATION CONTACT: Sarah Venti, Office of Compliance, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Silver Spring, MD 20993–0002, 301–796–3130, *drugtrackandtrace@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

FDA is announcing the availability of a revised draft guidance for industry entitled ''Definitions of Suspect Product and Illegitimate Product for Verification Obligations Under the Drug Supply Chain Security Act.'' This guidance interprets the terms used in the definition of ''suspect product'' set forth in section 581(21) of Federal Food, Drug, and Cosmetic Act (FD&C Act) (21 U.S.C. 360eee(21)), and the definition of ''illegitimate product'' set forth in section 581(8) of the FD&C Act to assist trading partners in meeting verification obligations (including notification) under section 582(b)(4), (c)(4), (d)(4), and (e)(4) (21 U.S.C. 360eee–1 (b)(4), (c)(4), (d)(4), and (e)(4)), respectively.

This draft guidance is intended to help industry better understand the definitions of ''suspect'' and ''illegitimate'' product as defined in section 581 of the FD&C Act. The draft guidance lays out FDA's current understanding of the following key terms used to define ''suspect'' and ''illegitimate'' product in section 581 of FD&C Act: ''Counterfeit,'' ''diverted,'' ''stolen,'' ''fraudulent transaction,'' and ''unfit for distribution.'' In response to comments received from stakeholders, this draft guidance revises the March 2018 draft guidance. Most significantly, this revised draft guidance: (1) Provides for FDA's current understanding of the term ''stolen''; (2) identifies certain scenarios that are unlikely to result in diverted product; (3) revises the definition of ''unfit for distribution'' by tying it more closely to the language in the DSCSA and referencing ''serious adverse health consequences or death to humans''; and (4) revises the definition of ''fraudulent transaction'' to apply to situations where information has been ''knowingly'' falsified.

This draft guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). The draft guidance, when finalized, will represent the current thinking of FDA on ''Definitions of Suspect Product and Illegitimate Product for Verification Obligations Under the Drug Supply Chain Security Act.'' It does not establish any rights for any person and is not binding on FDA or the public.

You can use an alternative approach if it satisfies the requirements of the applicable statutes and regulations.

II. Paperwork Reduction Act of 1995

FDA tentatively concludes that this draft guidance contains no collection of information. Therefore, clearance by the Office of Management and Budget under the Paperwork Reduction Act of 1995 is not required.

III. Electronic Access

Persons with access to the internet may obtain the guidance at *https://www.fda.gov/drugs/guidance-compliance-regulatory-information/guidances-drugs, https://www.fda.gov/vaccines-blood-biologics/guidance-compliance-regulatory-information-biologics/biologics-guidances,* or *https://www.regulations.gov.*

Dated: May 26, 2021.

Lauren K. Roth,

Acting Principal Associate Commissioner for Policy.

[FR Doc. 2021–11735 Filed 6–3–21; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2018–D–3175]

Product Identifiers Under the Drug Supply Chain Security Act: Questions and Answers; Guidance for Industry; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of availability.

SUMMARY: The Food and Drug Administration (FDA or Agency) is announcing the availability of a final guidance entitled ''Product Identifiers Under the Drug Supply Chain Security Act: Questions and Answers.'' The guidance is intended to address questions regarding product identifiers that, under the Federal Food, Drug, and Cosmetic Act (FD&C Act) as amended by the Drug Supply Chain Security Act (DSCSA), are required to be affixed to, or imprinted on, packages and homogenous cases of certain drug products intended to be introduced in a transaction into commerce. This guidance is intended to clarify FDA's interpretation of these requirements, including as they relate to the linear barcode requirements under the Code of Federal Regulations. This guidance finalizes the draft guidance issued on September 20, 2018.

DATES: The announcement of the guidance is published in the **Federal Register** on June 4, 2021.

ADDRESSES: You may submit either electronic or written comments on Agency guidances at any time as follows:

Electronic Submissions

Submit electronic comments in the following way:

- *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to *https://www.regulations.gov* will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on *https://www.regulations.gov.*
- If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see ''Written/Paper Submissions'' and ''Instructions'').

Written/Paper Submissions

Submit written/paper submissions as follows:

- *Mail/Hand Delivery/Courier (for written/paper submissions):* Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.
- For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in ''Instructions.''

Instructions: All submissions received must include the Docket No. FDA–2018–D–3175 for ''Product Identifiers Under the Drug Supply Chain Security Act: Questions and Answers.'' Received comments will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *https://www.regulations.gov* or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday, 240–402–7500.

- Confidential Submissions—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *https://www.regulations.gov.* Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *https://www.govinfo.gov/content/pkg/FR-2015-09-18/pdf/2015-23389.pdf.*

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to *https://www.regulations.gov* and insert the docket number, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852, 240–402–7500.

You may submit comments on any guidance at any time (see 21 CFR 10.115(g)(5)).

Submit written requests for single copies of the guidance to the Division of Drug Information, Center for Drug Evaluation and Research, Food and Drug Administration, 10001 New Hampshire Ave., Hillandale Building, 4th Floor, Silver Spring, MD 20993–0002. Send one self-addressed adhesive label to assist the office in processing your requests. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the guidance document.

FOR FURTHER INFORMATION CONTACT: Tia Harper-Velazquez, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 51, Rm. 4262, Silver Spring, MD 20993–0002, 301–796–3130.

SUPPLEMENTARY INFORMATION:

I. Background

FDA is announcing the availability of a final guidance for industry entitled ''Product Identifiers Under the Drug Supply Chain Security Act: Questions and Answers.'' The DSCSA (Title II of Pub. L. 113–54) was signed into law on November 27, 2013. Section 202 of the DSCSA, which added sections 581 and 582 to the Federal Food, Drug, and Cosmetic Act (FD&C Act) (21 U.S.C. 360eee and 360eee–1), set forth new definitions and requirements for manufacturers, repackagers, wholesale distributors, and dispensers to facilitate the tracing of product through the pharmaceutical distribution supply chain.

A product identifier is defined under section 581(14) of the FD&C Act as a standardized graphic that includes the product's standardized numerical identifier (composed of the National Drug Code and a unique alphanumeric serial number), lot number, and expiration date, in both human- and machine-readable formats. Under sections 582(b)(2)(A) and 582(e)(2) of the FD&C Act, respectively, manufacturers and repackagers are required to ''affix or imprint a product identifier to each package and homogenous case of a product intended to be introduced in a transaction into commerce.''

In the **Federal Register** of September 20, 2018 (83 FR 47626), FDA announced the availability of the draft guidance of the same title dated September 20, 2018. FDA received several comments on the draft guidance and considered those comments as we finalized the guidance. Among the key substantive changes, we revised the recommendations regarding the expiration date format—specifically, we no longer recommend using a space between the day, month, and year; we now recommend using a hyphen or forward slash between the expiration date elements. In addition, we also modified our statements regarding use of the human-readable GS1 Global Trade Identification Number to explain the importance of the three segment NDC format for patient safety. We also clarified how to affix or imprint multiple barcodes on the label with sufficient space to avoid confusion in reading or scanning. We made additional, editorial changes to improve clarity. The guidance announced in this notice finalizes the draft guidance dated September 20, 2018.

This guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). The guidance represents the current thinking of FDA on ''Product Identifiers Under the Supply Chain Security Act: Questions and Answers.'' It does not establish any rights for any person and is not binding on FDA or the public. You can use an alternative approach if it satisfies the requirements of the applicable statutes and regulations.

II. Paperwork Reduction Act of 1995

This guidance contains no collection of information. Therefore, clearance by the Office of Management and Budget under the Paperwork Reduction Act of 1995 is not required.

III. Electronic Access

Persons with access to the internet may obtain the guidance at either *https://www.fda.gov/drugs/guidance-compliance-regulatory-information/guidances-drugs, https://www.fda.gov/vaccines-blood-biologics/guidance-compliance-regulatory-information-biologics/biologics-guidances,* or *https://www.regulations.gov.*

Dated: May 26, 2021.

Lauren K. Roth,

Acting Principal Associate Commissioner for Policy.

[FR Doc. 2021–11733 Filed 6–3–21; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

[Document Identifier: OS–0990–0476]

Agency Information Collection Request; 30-Day Public Comment Request

AGENCY: Office of the Secretary, HHS.

ACTION: Notice.

SUMMARY: In compliance with the requirement of the Paperwork Reduction Act of 1995, the Office of the Secretary (OS), Department of Health and Human Services, is publishing the following summary of a proposed collection for public comment.

DATES: Comments on the ICR must be received on or before July 6, 2021.

ADDRESSES: Submit your comments to *Sherrette.Funn@hhs.gov* or by calling (202) 795–7714.

FOR FURTHER INFORMATION CONTACT: When submitting comments or requesting information, please include the document identifier 0990–0476, and project title for reference, to Sherrette Funn, the Reports Clearance Officer, *Sherrette.funn@hhs.gov,* or call 202–795–7714.

SUPPLEMENTARY INFORMATION: Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

Title of the Collection: ASPA COVID–19 Public Education Campaign Market Research.

Type of Collection: OMB #0990–0476.

Abstract: U. S. Department of Health and Human Services (HHS), the Office of the Secretary, the Office of the Assistant Secretary for Public Affairs (ASPA), is requesting an extension on a currently approved collection that includes three components: 1. COVID–19 Current Events Tracker; 2. Foundational Focus Groups; and 3. Copy Testing Surveys. Together, these efforts support the development and execution of the COVID–19 Public Education Campaign. The broad purpose of each effort is as follows:

Current Events Tracker

The primary purpose of the COVID–19 Current Events Tracker (CET) survey is to continuously track key metrics of importance to the Campaign, including vaccine confidence, familiarity with and trust in HHS, and the impact of external events on key attitudes and behaviors. Tracking Americans' attitudes about, perceptions of, and behavior toward the COVID–19 pandemic will inform the Campaign of key metrics around vaccine confidence and uptake, as well as towards vaccine messengers such as HHS and key public health officials. It will also inform changes in messaging strategies necessary to effectively reach the entire U.S. population or specific subgroups.

The weekly tracking of this information will be critical for the Campaign's ability to respond to shifting events and attitudes in real-time, helping guide the American public with accurate information about the vaccine rollout as well as on how to take protective actions.

Foundational Focus Groups

ASPA is collecting information through the COVID–19 Public Education Campaign Foundational Focus Groups to inform the Campaign about audience risk knowledge, perceptions, current behaviors, and barriers and motivators to healthy behaviors (including COVID–19 vaccination). Ultimately these focus groups will provide in-depth insights

regarding information needed by Campaign audiences as well as their attitudes and behaviors related to COVID–19 and the COVID–19 vaccines. These will be used to inform the development of Campaign messages and strategy.

Copy Testing Surveys

Prior to placing Campaign advertisements in market, ASPA will conduct copy testing surveys to ensure the final Campaign messages have the intended effect on target attitudes and behaviors. Copy testing surveys will be conducted with sample members who comprise the target audiences; these surveys will assess perceived effectiveness of the advertisements as well as the effect of exposure to an ad on key attitudes and behavioral intentions. The results from these surveys will be used internally by ASPA to inform decisions on Campaign messages and materials; for example, to identify revisions to the materials or determine which advertisement to move to market.

Need and Proposed Use: In light of the current COVID–19 crisis, this information is needed given the impact of the pandemic on the nation. The Secretary of the Department of Health and Human Services (HHS) has declared a public health emergency effective January 27, 2020, under section 319 of the Public Health Service Act (42 U.S.C. 247d [1]) and renewed it continually since its issuance (see links to the determination here and here). Additionally, in accordance with 5 CFR 1320.13, HHS previously requested emergency submissions (sections 1320 (a)(2)(ii) and (2)(iii) of the federal regulations.

ESTIMATED ANNUALIZED BURDEN HOUR TABLE

	CET	Foundational focus groups	Copy testing survey
Hours to screen	N/A	.09	0.03
Screening completes (per wave)	N/A	2,500	6,700
Screening participants (total/screened out)	N/A	20,000/19,136	53,600/45,600
Hours to complete survey/group	0.12	1.5	0.33
Participants (per wave/round)	1,000	108	1,000
Number of waves/rounds	92	8	8
Burden per wave/round	120	387	330
Total participants	92,000	864	8,000
Total respondents *	92,000	20,000	53,600
Total burden hours	11,040	3,096	4,248

* Total respondents = total participants for each effort + total people screened out.

Sum of All Studies

Total Respondents: 165,600.
Total Burden Hours: 18,384.

Sherrette A. Funn,

Paperwork Reduction Act Reports Clearance Officer, Office of the Secretary.

[FR Doc. 2021–11723 Filed 6–3–21; 8:45 am]

BILLING CODE 4150–25–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel; Integrated Preclinical/Clinical AIDS Vaccine Development Program (IPCAVD) (U19 Clinical Trial Not Allowed).

Date: June 30, 2021.

Time: 10:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institute of Allergy and Infectious Diseases, National Institutes of Health, 5601 Fishers Lane, Room 3G36, Rockville, MD 20892 (Virtual Meeting).

Contact Person: Poonam Pegu, Ph.D., Scientific Review Officer, Scientific Review Program, DEA/NIAID/NIH/DHHS, 5601 Fishers Lane, MSC–9823, Rockville, MD 20892, 240–292–0719, *poonam.pegu@nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: May 28, 2021.

Tyeshia M. Roberson,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2021–11711 Filed 6–3–21; 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 Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Alcohol Abuse and Alcoholism Special Emphasis Panel; SARS-CoV–2, COVID–19 and Consequences of Alcohol Use (RFA AA 21–002, AA 21–003 and AA21–004).

Date: July 15–16, 2021.

Time: 9:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, National Institute on Alcohol Abuse and Alcoholism, 6700B Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Ranga Srinivas, Ph.D., Chief, Extramural Project Review Branch, National Institute on Alcohol Abuse and Alcoholism, National Institutes of Health, 6700 B Rockledge Drive, Room 2114, Bethesda, MD 20892, (301) 451–2067, *srinivar@mail.nih.gov.*

(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: June 1, 2021.

Melanie J. Pantoja,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2021–11785 Filed 6–3–21; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Artificial Intelligence for Multimodal Data Modeling and Bioinformatics Center Review.

Date: June 29, 2021.

Time: 9:00 a.m. to 9:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Katherine M. Malinda, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4140, MSC 7814, Bethesda, MD 20892, (301) 435–0912, *katherine.malinda@nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; RFA Panel; HEALthy Brain and Child Development Study Consortium Administrative Core and Data Coordinating Center (U24).

Date: June 29, 2021.

Time: 10:00 a.m. to 3:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Gianina Ramona Dumitrescu, Ph.D., MPH, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4193–C, Bethesda, MD 28092, (301) 827–0696, *dumitrescurg@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Pathobiology of Alzheimer's Disease.

Date: June 29, 2021.

Time: 12:00 p.m. to 4:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Aleksey Gregory Kazantsev, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5201, MSC 7846, Bethesda, MD 20817, (301) 435–1042, *aleksey.kazantsev@nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Fellowships in Genes, Genomics and Genetics.

Date: June 30, 2021.

Time: 9:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Ronit Iris Yarden, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 904B, Bethesda, MD 20892, (202) 552–9939, *yardenri@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Neurological Dysfunction and Degenerative Disorders.

Date: June 30, 2021.

Time: 11:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Paula Elyse Schauwecker, Ph.D., Scientific Review Officer, National Institutes of Health, Center for Scientific Review, 6701 Rockledge Drive, Room 5211, Bethesda, MD 20892, (301) 760–8207, *schauweckerpe@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Small Business: Biological Chemistry, Biophysics, and Assay Development.

Date: July 1, 2021.

Time: 9:00 a.m. to 8:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: John Harold Laity, Ph.D., Scientific Review Officer, Center for Scientific Review, 6701 Rockledge Drive, Bethesda, MD 20892, (301) 402–8254, *john.laity@nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Acute Brain Injury and Recovery.

Date: July 2, 2021.

Time: 1:00 p.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Alexander Yakovlev, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5206, MSC 7846, Bethesda, MD 20892–7846, (301) 435–1254, *yakovleva@csr.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: May 28, 2021.

Tyeshia M. Roberson,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2021–11738 Filed 6–3–21; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Fellowships: Genes, Genomes and Genetics.

Date: June 29–30, 2021.

Time: 9:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Lystranne Alysia Maynard Smith, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (301) 402–4809, *lystranne.maynard-smith@nih.gov*.

Name of Committee: Genes, Genomes, and Genetics Integrated Review Group; Therapeutic Approaches to Genetic Diseases Study Section.

Date: June 30–July 1, 2021.

Time: 9:00 a.m. to 8:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Elena Smirnova, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5187, MSC 7840, Bethesda, MD 20892, (301) 357–9112, *smirnove@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Fellowships: Physiology and Pathobiology of the Vascular and Hematological Systems.

Date: June 30, 2021.

Time: 9:30 a.m. to 6:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Larry Pinkus, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4132, MSC 7802, Bethesda, MD 20892, (301) 435–1214, *pinkusl@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Cancer Biology.

Date: June 30, 2021.

Time: 1:00 p.m. to 5:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Juraj Bies, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Rm. 4158, MSC 7806, Bethesda, MD 20892, (301) 435–1256, *biesj@mail.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: June 1, 2021.

Melanie J. Pantoja,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2021–11782 Filed 6–3–21; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Notice of Diabetes Mellitus Interagency Coordinating Committee Meeting

AGENCY: National Institutes of Health, HHS.

ACTION: Notice.

SUMMARY: The Diabetes Mellitus Interagency Coordinating Committee (DMICC) will hold a joint meeting with the National Institutes of Arthritis and Musculoskeletal and Skin Diseases on June 4, 2021. The topic for this meeting will be ''Diabetes and Bone.'' The meeting is open to the public.

DATES: The meeting will be held on June 4, 2021 from 11 a.m. to 1:00 p.m. EDT.

ADDRESSES: The meeting will be held via the online video conferencing Zoom. For details, and to register, please contact *dmicc@mail.nih.gov.*

FOR FURTHER INFORMATION CONTACT: For further information concerning this meeting, including a draft agenda, see the DMICC website, *www.diabetescommittee.gov,* or contact Dr. B. Tibor Roberts, Executive Secretary of the Diabetes Mellitus Interagency Coordinating Committee, National Institute of Diabetes and Digestive and Kidney Diseases, 31 Center Drive, Building 31A, Room 9A19, MSC 2560, Bethesda, MD 20892–2560, telephone: 301–496–6623; FAX: 301–480–6741; email: *dmicc@mail.nih.gov.*

SUPPLEMENTARY INFORMATION: In accordance with 42 U.S.C.285c–3, the DMICC, chaired by the National Institute of Diabetes and Digestive and Kidney Diseases (NIDDK) comprising members of the Department of Health and Human Services and other federal agencies that support diabetes-related activities, facilitates cooperation, communication, and collaboration on diabetes among government entities. DMICC meetings, held several times a year, provide an opportunity for Committee members to learn about and discuss current and future diabetes programs in DMICC member organizations and to identify opportunities for collaboration. The June 4, 2021 DMICC meeting will focus on ''Diabetes and Bone.''

Any member of the public interested in presenting oral comments to the Committee should notify the contact person listed on this notice at least 5 days in advance of the meeting. Interested individuals and representatives or organizations should submit a letter of intent, a brief description of the organization represented, and a written copy of their oral presentation in advance of the meeting. Only one representative of an organization will be allowed to present; oral comments and presentations will be limited to a maximum of 5 minutes. Printed and electronic copies are requested for the record. In addition, any interested person may file written comments with the Committee by forwarding their 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. Because of time constraints for the meeting, oral comments will be allowed on a first-come, first-serve basis.

Members of the public who would like to receive email notification about future DMICC meetings should register for the listserv available on the DMICC website, *www.diabetescommittee.gov.*

Dated: May 19, 2021.

Bruce Tibor Roberts,

Executive Secretary, DMICC, Office of Scientific Program and Policy Analysis, National Institute of Diabetes and Digestive and Kidney Diseases, National Institutes of Health.

[FR Doc. 2021–11728 Filed 6–3–21; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Notice of Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of a meeting of the National Cancer Advisory Board and NCI Board of Scientific Advisors.

The meeting will be held as a virtual meeting and is open to the public as indicated below. 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 meeting will be videocast and can be accessed from the NIH Videocasting and Podcasting website (*http://videocast.nih.gov/*).

A portion of the National Cancer Advisory Board 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 Cancer Advisory Board and NCI Board of Scientific Advisors.

Date: June 14, 2021.

Open: 11:00 a.m. to 12:00 p.m.

Agenda: NCAB Subcommittee Meetings—Subcommittee on Planning and Budget.

Open: 12:05 p.m. to 4:00 p.m.

Agenda: Joint meeting of the National Cancer Advisory Board and NCI Board of Scientific Advisors, NCI Director's report and presentations.

Closed: 4:00 p.m. to 5:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Cancer Institute—Shady Grove, 9609 Medical Center Drive, Rockville, MD 20850 (Virtual Meeting).

Name of Committee: National Cancer Advisory Board and NCI Board of Scientific Advisors.

Date: June 15, 2021.

Open: 1:00 p.m. to 3:00 p.m.

Agenda: Joint meeting of the National Cancer Advisory Board and NCI Board of Scientific Advisors, NCI Board of Scientific Advisors Concepts Review, Ongoing and New Business.

Place: National Cancer Institute—Shady Grove, 9609 Medical Center Drive, Rockville, MD 20850 (Virtual Meeting).

Contact Person: Paulette S. Gray, Ph.D. Director, Division of Extramural Activities, National Cancer Institute—Shady Grove, National Institutes of Health, 9609 Medical Center Drive, 7th Floor, Room. 7W444, Bethesda, MD 20892, 240–276–6340, *grayp@mail.nih.gov*.

Any interested person may file written comments with the committee by forwarding the statement to the Contact Person listed on this notice. The statement should include the name, address, telephone number and when applicable, the business or professional affiliation of the interested person.

Information is also available on the Institute's/Center's home page:

NCAB: *https://deainfo.nci.nih.gov/advisory/ncab/ncabmeetings.htm,*

BSA: *https://deainfo.nci.nih.gov/advisory/bsa/bsameetings.htm,* where an agenda and any additional information for the meeting will be posted when available.

This notice is being published less than 15 days prior to the meeting due to scheduling difficulties.

(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: June 1, 2021.

Melanie J. Pantoja,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2021–11783 Filed 6–3–21; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of a meeting of the Board of Scientific Counselors, National Cancer Institute. The meeting will be closed to the public as indicated below in accordance with the provisions set forth in section 552b(c)(6), Title 5 U.S.C., as amended for the review, discussion, and evaluation of individual intramural programs and projects conducted by the National Cancer Institute, including consideration of personnel qualifications and performance, and the competence of individual investigators, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Board of Scientific Counselors, National Cancer Institute.

Date: July 12–13, 2021.

Time: 11:00 a.m. to 5:30 p.m.

Agenda: To review and evaluate personnel qualifications and performance, and competence of individual investigators.

Place: National Cancer Institute—Shady Grove, 9609 Medical Center Drive, Rockville, MD 20850 (Virtual Meeting).

Contact Person: Brian E. Wojcik, Ph.D., Senior Review Administrator, Institute Review Office, Office of the Director, National Cancer Institute, National Institutes of Health, 9609 Medical Center Drive, Room 3W414, Rockville, MD 20850, 240–276–5660, *wojcikb@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: June 1, 2021.

Melanie J. Pantoja,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2021–11784 Filed 6–3–21; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID FEMA–2020–0016]

Meetings To Implement Pandemic Response Voluntary Agreement Under Section 708 of the Defense Production Act

AGENCY: Federal Emergency Management Agency, Department of Homeland Security.

ACTION: Announcement of meetings.

SUMMARY: The Federal Emergency Management Agency (FEMA) held two meetings to implement the Voluntary Agreement for the Manufacture and Distribution of Critical Healthcare Resources Necessary to Respond to a Pandemic.

DATES: The first meeting took place on Tuesday, May 25, 2021, from 10:30 a.m. to 12 p.m. Eastern Time (ET). The second meeting took place on Wednesday, May 26, 2021, from 2 to 3 p.m. ET.

FOR FURTHER INFORMATION CONTACT: Robert Glenn, Office of Business, Industry, Infrastructure Integration, via email at *OB3I@fema.dhs.gov* or via phone at (202) 212–1666.

SUPPLEMENTARY INFORMATION: Notice of these meetings is provided as required by section 708(h)(8) of the Defense Production Act (DPA), 50 U.S.C. 4558(h)(8), and consistent with 44 CFR part 332.

The DPA authorizes the making of ''voluntary agreements and plans of action'' with representatives of industry, business, and other interests to help provide for the national defense.[1] The President's authority to facilitate voluntary agreements with respect to responding to the spread of COVID–19 within the United States was delegated to the Secretary of Homeland Security in Executive Order 13911.[2] The Secretary of Homeland Security further delegated this authority to the FEMA Administrator.[3]

On August 17, 2020, after the appropriate consultations with the Attorney General and the Chairman of the Federal Trade Commission, FEMA completed and published in the **Federal Register** a ''Voluntary Agreement, Manufacture and Distribution of Critical Healthcare Resources Necessary to

[1] 50 U.S.C. 4558(c)(1).

[2] 85 FR 18403 (Apr. 1, 2020).

[3] DHS Delegation 09052, Rev. 00.1 (Apr. 1, 2020); DHS Delegation Number 09052 Rev. 00 (Jan. 3, 2017).

Respond to a Pandemic'' (Voluntary Agreement).[4] Unless terminated earlier, the Voluntary Agreement is effective until August 17, 2025, and may be extended subject to additional approval by the Attorney General after consultation with the Chairman of the Federal Trade Commission. The Agreement may be used to prepare for or respond to any pandemic, including COVID–19, during that time.

On December 7, 2020, the first plan of action under the Voluntary Agreement—the Plan of Action to Establish a National Strategy for the Manufacture, Allocation, and Distribution of Personal Protective Equipment (PPE) to Respond to COVID–19 (Plan of Action)—was finalized.[5] The Plan of Action established several sub-committees under the Voluntary Agreement, focusing on different aspects of the Plan of Action.

The meetings were chaired by the FEMA Administrator or her delegate and attended by the Attorney General and the Chairman of the Federal Trade Commission or their delegates. In implementing the Voluntary Agreement, FEMA adheres to all procedural requirements of 50 U.S.C. 4558 and 44 CFR part 332.

Meeting Objectives: The objectives of the meetings were as follows:

1. Gather committee Participants and Attendees to ask targeted questions for situational awareness about PPE, drug products and drug substances, diagnostic test kits, medical devices, and medical gases.
2. Establish priorities for COVID–19 response under the Voluntary Agreement.
3. Identify tasks that should be completed under the appropriate Sub-Committee.
4. Identify information gaps and areas that merit sharing (both from FEMA to the private sector and vice versa).

Meetings Closed to the Public: By default, the DPA requires meetings held to implement a voluntary agreement or plan of action be open to the public.[6] However, attendance may be limited if the Sponsor[7] of the voluntary agreement finds that the matter to be discussed at a meeting falls within the purview of matters described in 5 U.S.C. 552b(c), such as trade secrets and commercial or financial information. The Sponsor of the Voluntary Agreement, the FEMA Administrator, found that these meetings to implement the Voluntary Agreement involved matters which fall within the purview of matters described in 5 U.S.C. 552b(c) and the meetings were therefore closed to the public.

Specifically, these meetings to implement the Voluntary Agreement may have required participants to disclose trade secrets or commercial or financial information that is privileged or confidential. Disclosure of such information allows for meetings to be closed pursuant to 5 U.S.C. 552b(c)(4). In addition, the success of the Voluntary Agreement depends wholly on the willing and enthusiastic participation of private sector participants. Failure to close these meetings could have had a strong chilling effect on private sector participation and caused a substantial risk that sensitive information would be prematurely released to the public, leading to participants withdrawing their support from the Voluntary Agreement. This would have significantly frustrated the implementation of the Voluntary Agreement. Frustration of an agency's objective due to premature disclosure of information allows for the closure of a meeting pursuant to 5 U.S.C. 552b(c)(9)(B).

Deanne Criswell,

Administrator, Federal Emergency Management Agency.

[FR Doc. 2021–11786 Filed 6–3–21; 8:45 am]

BILLING CODE 9111–19–P

[4] 85 FR 50035 (Aug. 17, 2020). The Attorney General, in consultation with the Chairman of the Federal Trade Commission, made the required finding that the purpose of the voluntary agreement may not reasonably be achieved through an agreement having less anticompetitive effects or without any voluntary agreement and published the finding in the **Federal Register** on the same day. 85 FR 50049 (Aug. 17, 2020).

[5] *See* 85 FR 78869 (Dec. 7, 2020). *See also* 85 FR 79020 (Dec. 8, 2020).

[6] *See* 50 U.S.C. 4558(h)(7).

[7] ''[T]he individual designated by the President in subsection (c)(2) [of section 708 of the DPA] to administer the voluntary agreement, or plan of action.'' 50 U.S.C. 4558(h)(7).

DEPARTMENT OF HOMELAND SECURITY

Transportation Security Administration

Intent To Request a Revision From OMB of One Current Public Collection of Information: Department of Homeland Security Traveler Redress Inquiry Program (DHS TRIP)

AGENCY: Transportation Security Administration, Homeland Security (DHS).

ACTION: 60-Day notice.

SUMMARY: The Transportation Security Administration (TSA) invites public comment on one currently approved Information Collection Request (ICR), Office of Management and Budget (OMB) control number 1652–0044, abstracted below that we will submit to OMB for a revision in compliance with the Paperwork Reduction Act (PRA). The ICR describes the nature of the information collection and its expected burden. The collection involves the submission of identifying the travel experience information submitted by individuals requesting redress through the Department of Homeland Security (DHS) Traveler Redress Inquiry Program (TRIP).

DATES: Send your comments by August 3, 2021.

ADDRESSES: Comments may be emailed to *TSAPRA@tsa.dhs.gov* or delivered to the TSA PRA Officer, Information Technology, TSA–11, Transportation Security Administration, 6595 Springfield Center Drive, Springfield, VA 20598–6011.

FOR FURTHER INFORMATION CONTACT: Christina A. Walsh at the above address, or by telephone (571) 227–2062.

SUPPLEMENTARY INFORMATION:

Comments Invited

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid OMB control number. The ICR documentation will be available at *http://www.reginfo.gov* upon its submission to OMB. Therefore, in preparation for OMB review and approval of the following information collection, TSA is soliciting comments to—

(1) Evaluate whether the proposed information requirement 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;

(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 using appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Information Collection Requirement

OMB Control Number 1652–0044; Department of Homeland Security Traveler Redress Inquiry Program (DHS TRIP). DHS TRIP is a single point of contact for individuals who have inquiries or seek resolution regarding difficulties they have experienced during their travel screening. These difficulties could include: (1) Denied or

delayed boarding; (2) denied or delayed entry into or departure from the United States at a port of entry; or (3) identified for additional (secondary) screening at our Nation's transportation facilities, including airports, seaports, train stations and land borders. The TSA manages the DHS TRIP office on behalf of DHS. To request redress, individuals are asked to provide identifying information, as well as details of their travel experience in two surveys.

The DHS TRIP office serves as a centralized intake office for traveler requests for redress and uses the online Traveler Inquiry Form (TIF) to collect requests for redress. DHS TRIP then passes the information to the relevant DHS TRIP practitioner office(s), including components of DHS, the U.S. Department of State, and the U.S. Department of Justice, to process the request, as appropriate. Participating DHS components include TSA, U.S. Customs and Border Protection, U.S. Immigration and Customs Enforcement, U.S. Citizenship and Immigration Services, the National Protection and Programs Directorate's Office of Biometric Information Management, Office of Civil Rights and Civil Liberties, and the Privacy Office, along with the U.S. Department of State, Bureau of Consular Affairs, and the U.S. Department of Justice, Terrorist Screening Center. This collection serves to distinguish misidentified individuals from an individual actually on any watch list that DHS uses, to initiate the correction of erroneous information about an individual contained in government-held records, which are leading to travel difficulties, and, where appropriate, to help streamline and expedite future check-in or border crossing experiences. It also serves to obtain information about the redress applicants' level of satisfaction with the DHS TRIP application process with the aim of using this information to identify areas for improvement.

Due to its importance in air transportation, the United States was elected to the Governing Council during the 2019 International Civil Aviation Organization (IACO) Assembly. ICAO creates regulations for aviation safety, security, efficiency and regularity and environmental protection. The organization also creates standards to provide uniformity in regulations, procedures and organization in relation to aircraft, personnel, airways, and auxiliary services in order to improve air navigation. TSA is revising the information collection by aligning the TIF question set to capture additional criteria to meet ICAO standards. As a result, the question set has been edited to meet the standards.

DHS estimates completing the form, and gathering and submitting the information will take approximately one hour. The annual respondent population was derived from data contained within the DHS case management database and reflects the actual number of respondents for the most recent calendar year. The estimated annual number of burden hours for passengers seeking redress, based on 15,000 annual respondents, is 15,000 hours (15,000 × 1 hour). DHS estimates 10 percent of the 15,000 respondents completing the form will complete the two surveys to share details of their application experience. The completion of the surveys will take approximately 10 minutes, giving an estimated annual number of burden hours as 250 (1,500 × .0167). The total estimated annual number of burden hours for this collection is 15,250 (15,000 + 250) hours.

Christina A. Walsh,

TSA Paperwork Reduction Act Officer, Information Technology.

[FR Doc. 2021–11770 Filed 6–3–21; 8:45 am]

BILLING CODE 9110–05–P

DEPARTMENT OF HOMELAND SECURITY

Transportation Security Administration

Intent To Request Revision of Agency Information Collection Activity Under OMB Review: Baseline Assessment for Security Enhancement (BASE) Program

AGENCY: Transportation Security Administration, DHS.

ACTION: 60-Day notice.

SUMMARY: The Transportation Security Administration (TSA) invites public comment on one currently approved Information Collection Request (ICR), Office of Management and Budget (OMB) control number 1652–0062 abstracted below that we will submit to OMB for a revision in compliance with the Paperwork Reduction Act (PRA). The ICR assesses the current security practices in the mass transit/passenger rail and highway and motor carrier industries by way of the Baseline Assessment for Security Enhancement (BASE) program, which encompasses site visits and interviews, and is part of the larger domain awareness, prevention, and protection program that supports the mission of TSA and the Department of Homeland Security (DHS). This voluntary collection allows TSA to conduct transportation security-related assessments during site visits with security and operating officials of certain surface transportation entities.

DATES: Send your comments by August 3, 2021.

ADDRESSES: Comments may be emailed to *TSAPRA@tsa.dhs.gov* or delivered to the TSA PRA Officer, Information Technology, TSA 11, Transportation Security Administration, 6595 Springfield Center Drive, Springfield, VA 20598–6011.

FOR FURTHER INFORMATION CONTACT: Christina A. Walsh at the above address, or by telephone (571) 227–2062.

SUPPLEMENTARY INFORMATION:

Comments Invited

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid OMB control number. The ICR documentation will be available at *http://www.reginfo.gov* upon its submission to OMB. Therefore, in preparation for OMB review and approval of the following information collection, TSA is soliciting comments to—

(1) Evaluate whether the proposed information requirement 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;

(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 using appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Information Collection Requirement

OMB Control Number 1652–0062; Baseline Assessment for Security Enhancement (BASE) Program. Under the Aviation and Transportation Security Act and delegated authority from the Secretary of Homeland Security, TSA has broad responsibility and authority for ''security in all modes of transportation including security responsibilities over modes of transportation that are exercised by the Department of Transportation.'' [1] TSA is

[1] *See* Public Law 107–71, 115 Stat. 597 (Nov. 19, 2001), codified at 49 U.S.C. 114(d). The TSA Administrator's current authorities under the Aviation and Transportation Security Act have been

Continued

required to ''assess the security of each surface transportation mode and evaluate the effectiveness and efficiency of current Federal Government surface transportation security initiatives.'' E.O. 13416, sec. 3(a) (Dec. 5, 2006).

TSA developed the BASE program in 2007, in an effort to engage with surface transportation entities to establish a ''baseline'' of security and emergency response operations. This program was initially created for Mass Transit/Passenger Rail (MT/PR) (including rail and bus operations) and passenger rail. Based on the success of the program, TSA developed the Highway (HWY) BASE program in 2012, which achieved full implementation in 2013. The HWY BASE applies to trucking, school bus contractors, school districts, and over-the-road motor coach. This voluntary program enables TSA to collect and evaluate physical and operational preparedness information and critical assets and key point-of-contact lists. TSA also reviews emergency procedures and domain awareness training and provides an opportunity to share industry best practices. The program provides TSA with current information on adopted security-practices within the MT/PR and HWY modes of the surface transportation sector. The information collected also allows TSA to dynamically adapt programs to the changing threat with an understanding of the improvements surface transportation entities make in their security posture. Without this information, the ability for TSA to perform its security mission would be severely hindered. Additionally, the relationships these face-to-face contacts foster are critical to TSA's ability to reach out to the surface transportation entities participating in the BASE program.

Absent this program, there would be no consistent data about these transportation security programs, nor a database that could be used to benchmark the programs. While many MT/PR and HWY entities have security and emergency response plans or protocols in place, the BASE provides a consistent approach to evaluate the extent to which security programs exists and the content of those programs.

The Government Accountability Office, audit GA–20–404, recommended TSA update the BASE cybersecurity questions to ensure they reflect key practices. As a result, TSA is revising the collection to include all five core functions of the National Institute of Standards and Technology cybersecurity framework. All core functions and a majority of the subcategories are amalgamated with industry best practices in the newly developed cybersecurity questions and cyber annex, strengthening the cybersecurity health for the transportation sector.

In carrying out the voluntary BASE program, TSA's Transportation Security Inspectors-Surface (TSIs-S) conduct BASE reviews during site visits with security and operating officials of MT/PR and HWY systems, throughout the Nation. The TSIs-S receive and document relevant information using a standardized electronic checklist. Advance coordination and planning ensures the efficiency of the assessment process. The TSIs-S review and analyze the stakeholders' security plan, if adopted, and determine if the mitigation measures included in the plan are being effectively implemented, while providing additional resources for further security enhancement. In addition to examining the security plan document, TSIs-S reviews one or more assets of the private and/or public owner/operator.

During BASE site visits of MT/PR and HWY entities, TSIs-S collect information and complete a BASE checklist from the review of each entity's documents, plans, and procedures. They also interview appropriate entity personnel and conduct system observations prompted by questions raised during the document review and interview stages. TSA conducts the interviews to ascertain and clarify information on security measures and to identify security gaps. The interviews also provide TSA with a method to encourage the surface transportation entities participating in the BASE reviews to be diligent in effecting and maintaining security-related improvements.

While TSA has not set a limit on the number of BASE program reviews to conduct, TSA estimates it will conduct approximately 75 MT/PR BASE reviews and approximately 107 HWY BASE reviews on an annual basis. TSA does not intend to conduct more than one BASE review per mass transit or passenger rail system in a single year. TSA estimates that the hour burden per MT/PR entity to engage its security and/or operating officials with inspectors in the interactive BASE program review process is approximately 11.7 hours, while those who choose to also take the new cyber annex assessment will spend 17.7 hours. Also, TSA estimates that the hour burden per HWY entity to engage its security and/or operating officials with inspectors in the interactive BASE program review process is approximately 1.8 hours, while those who choose to also take the new cyber annex assessment will spend 7.8 hours. Thus, the total annual hour burden for the MT/PR BASE program review is 1,196 hours annually and for HWY BASE 512 hours annually.

Christina A. Walsh,

TSA Paperwork Reduction Act Officer, Information Technology.

[FR Doc. 2021–11751 Filed 6–3–21; 8:45 am]

BILLING CODE 9110–05–P

delegated to him by the Secretary of Homeland Security. Section 403(2) of the Homeland Security Act (HSA) of 2002, Public Law 107–296, 116 Stat. 2315 (Nov. 25, 2002), transferred all functions of TSA, including those of the Secretary of Transportation and the Under Secretary of Transportation of Security related to TSA, to the Secretary of Homeland Security. Pursuant to DHS Delegation Number 7060.2, the Secretary delegated to the Assistant Secretary (now referred to as the Administrator of TSA), subject to the Secretary's guidance and control, the authority vested in the Secretary with respect to TSA, including that in sec. 403(2) of the HSA.

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLNM930000 L51010000.ER0000 LVRWG19G0690 19XL5017AP]

Notice of Intent To Prepare an Environmental Impact Statement and Resource Management Plan Amendments for the SunZia Southwest Transmission Project, New Mexico

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of intent.

SUMMARY: The Bureau of Land Management (BLM) New Mexico State Office (NMSO), Santa Fe, New Mexico (NM), intends to prepare an Environmental Impact Statement (EIS) to analyze the environmental impacts associated with SunZia's application seeking to amend its right-of-way grant for the SunZia Southwest Transmission Project. Proposed amendments to SunZia's right-of-way grant may require plan amendments to the Socorro Field Office Resource Management Plan, the Las Cruces District Mimbres Resource Management Plan, the Sevilleta National Wildlife Refuge Comprehensive Conservation Plan, and the Cibola National Forest Land and Resource Management Plan, which the agencies will analyze in the EIS. BLM NMSO is the lead agency for purposes of the National Environmental Policy Act (NEPA) analysis with the U.S. Fish & Wildlife Service (FWS), U.S. Forest Service (FS), National Park Service (NPS), and other agencies serving as

cooperating agencies. This Notice initiates the scoping process and opens a 30-day public comment period to solicit public comments and identify issues.

DATES: The BLM requests comments concerning the scope of the analysis and identification of relevant information, studies, and analyses. All comments must be received by July 6, 2021.

ADDRESSES: Submit comments electronically via the ePlanning site: *https://eplanning.blm.gov/eplanning-ui/project/2011785/510.* Comments and requests for additional information may also be sent to Adrian Garcia, Project Manager, Bureau of Land Management, New Mexico State Office, 301 Dinosaur Trail, Santa Fe, NM 87508. Verbal comment may also be submitted via a telephone hotline at 1–888–959–2510.

FOR FURTHER INFORMATION CONTACT: Adrian Garcia, Project Manager, Bureau of Land Management, New Mexico State Office, 301 Dinosaur Trail, Santa Fe, New Mexico 87508, telephone: (505) 954–2199, or email: *agarcia@blm.gov.* Persons who use a telecommunications device for the deaf (TDD) may call the Federal Relay Service (FRS) at 1–800–877–8339 to contact the above individual during normal business hours. The FRS is available 24 hours a day, 7 days a week, to leave a message or question. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION:

Purpose and Need for the Proposed Action

In compliance with NEPA, and the Federal Land Policy and Management Act of 1976, as amended, the BLM NMSO intends to prepare an EIS to analyze the environmental impacts associated with SunZia Transmission, LLC's (SunZia) application seeking to amend its right-of-way grant for the SunZia Southwest Transmission Project (Project). Proposed amendments to SunZia's right-of-way grant may require plan amendments to the Socorro Field Office Resource Management Plan, the Las Cruces District Mimbres Resource Management Plan, the Sevilleta National Wildlife Refuge Comprehensive Conservation Plan, and the Cibola National Forest Land and Resource Management Plan, which the agencies will analyze in the EIS.

Preliminary Proposed Action and Alternatives

The proposed Project is composed of two planned 500 kilovolt (kV) transmission lines located across approximately 520 miles of Federal, State, and private lands between central New Mexico and central Arizona. The purpose of the Project is to transport up to 4,500 megawatts of primarily renewable energy from New Mexico to markets in Arizona and California. The permitted route originates at a planned substation in Torrance County, New Mexico, and terminates at the existing Pinal Central Substation in Pinal County, Arizona. The Project traverses Lincoln, Socorro, Sierra, Luna, Grant, Hidalgo, Valencia, and Torrance counties in New Mexico and Graham, Greenlee, Cochise, Pinal, and Pima counties in Arizona. The route has four segments:

- *Segment 1:* Pinal Central Substation to Willow Substation
- *Segment 2:* Willow Substation to SunZia South Substation (Segment 2a in Arizona, Segment 2b in New Mexico)
- *Segment 3:* SunZia South Substation to New Mexico Institute of Mining and Technology (NM Tech)
- *Segment 4:* NM Tech to SunZia East Substation

Prior environmental documents include a Final EIS in 2013 and a Record of Decision and a subsequent Environmental Assessment and Finding of No New Significant Impact in 2015 to accommodate burial of approximately 5 miles of the transmission line in three locations in the vicinity of White Sands Missile Range. The BLM issued a right-of-way (ROW) grant to SunZia in 2016, authorizing use of a 400-foot-wide corridor across 183 miles of Federal lands administered by the BLM. Construction of the lines has not begun.

SunZia is proposing to amend the existing grant in four components:

- *Component 1—Localized Route Modifications:* Five route modifications in New Mexico in Segments 2 and 3. These five modifications involve BLM-administered land (an increase in route length of approximately 0.8 miles and an additional approximate 38.8 acres). Proposed modifications on non-BLM-administered land involve an increase in route length of approximately 0.8 miles and an additional approximate 38.9 acres. These modifications are being proposed to address a range of issues, including challenges in obtaining a private landowner ROW or easement and topography.
- *Component 2—Access Roads and Temporary Work Areas Outside the Granted ROW:* Adding a ROW for about 761 miles of existing and new access roads, of which approximately 708.8 miles would be permanent, 52.2 miles would be temporary, and approximately 739.8 acres of temporary work areas that fall outside the permitted 400-foot-wide corridor across both States. About 216.5 miles of access roads are on BLM-administered land (172.3 in New Mexico; 44.2 in Arizona). About 157.7 acres of temporary work areas are located on BLM-administered land in New Mexico and 22.6 in Arizona.
- *Component 3—Segment 4 Reroute:* A reroute of Segment 4 to accommodate ongoing concerns of White Sands Missile Range, take advantage of an opportunity to partially parallel the Western Spirit 345 kV Transmission Project, and move the eastern substation closer to proposed wind-generation projects. The total length of the currently permitted Segment 4 route is 91.7 miles, of which 20.2 miles are Federal land administered by the BLM. SunZia is considering three alternative routes. Common to all three alternatives are approximately the first 65 miles, from the SunZia East Substation to where the alternative routes diverge. These 65 miles would cross BLM (approximately 0.2 mile), State, and private lands, 33 miles of which are parallel to the proposed Western Spirit 345 kV Transmission Project. The three alternative routes (including the initial 65 miles) are:
  - *Alternative Route 1:* options ranging from 151.8 to 153.9 miles, would cross approximately 28.1 to 31.5 miles of BLM-administered land and approximately 4.7 miles across the Cibola National Forest administered by the FS.
  - *Alternative Route 2:* options ranging from 114.9 to 121.5 miles, would cross approximately 5.9 miles of BLM-administered land and 14.2 miles across the Sevilleta National Wildlife Refuge administered by the FWS.
  - *Alternative Route 3:* options ranging from 118.1 to 125.9 miles, would cross 9 to 9.6 miles of BLM-administered land and approximately 11.6 miles across the Sevilleta National Wildlife Refuge administered by the FWS.

  Additionally, the BLM may consider and analyze in detail additional route alternatives through the NEPA process other than those requested by SunZia.
- *Component 4—SunZia West Substation:* A substation to convert power from DC to AC. SunZia intends for one of the two proposed SunZia transmission lines to be AC and the other transmission line to be either AC or DC. The DC line would require equipment at each terminus to convert the power from AC to DC (SunZia East HVDC converter) and from DC to AC (SunZia West HVDC converter). The SunZia West Substation is being sited along the permitted SunZia ROW on approximately 80.7 acres of Arizona

State land just east of Red Rock, Arizona (no Federal ROW is needed).

SunZia states the width of the permanent ROW for the transmission lines typically is a minimum of 400 feet on BLM-administered lands but may be up to 1,000 feet wide in areas with terrain constraints.

Summary of Expected Impacts

Impacts from the proposed action would include ground disturbance-associated impacts to natural and cultural resources; visual impacts; potential impacts to threatened and endangered species at the Rio Grande River crossing, including the Southwestern Willow Flycatcher, Yellow-Billed Cuckoo, and the Silvery Minnow; and socioeconomic effects from construction, operation, and maintenance. If an alternative reroute is selected, Federal agencies may need to amend land use plans. The disciplines to be represented and used to prepare the EIS include, but are not limited to:

- Land use and recreation;
- Visual resources;
- Wilderness, wilderness study areas, lands with wilderness characteristics, and FS designated roadless areas;
- Vegetation/riparian/noxious and invasive weeds/special status plant species, including Threatened and Endangered Species and their habitat;
- General and special-status wildlife species, including Threatened and Endangered Species and their habitat;
- Earth resources (geology, minerals, and soils);
- Water resources;
- Air quality;
- Cultural resources;
- Social and economic conditions;
- Health and safety/hazardous materials;
- Paleontological resources;
- Special designations; and
- Wildland fire ecology and management.

Anticipated Permits and Authorizations

If approved, the BLM would issue a ROW Grant and Temporary Use Permit for Federal lands. Any alternative reroute selected that would cross the Cibola National Forest or the Sevilleta National Wildlife Refuge would require permit approval from the FS and FWS, respectively.

Public Scoping Process

The BLM will initiate a 30-day scoping period beginning with the publication of this Notice of Intent (NOI). The BLM will hold a series of public scoping meetings to begin approximately 15 days after issuance of the NOI.

The BLM will utilize and coordinate the NEPA scoping process to help fulfill the public involvement process under the National Historic Preservation Act (54 U.S.C. 306108) as provided in 36 CFR 800.2(d)(3). The information about historic and cultural resources within the area potentially affected by the proposed action will assist the BLM in identifying and evaluating impacts to such resources.

The BLM will continue to consult with Native American tribes on a government-to-government basis in accordance with Executive Order 13175 and other policies. Tribal concerns, including impacts on Indian trust assets and potential impacts to cultural resources, will be given due consideration.

Federal, State, and local agencies, along with Tribes and other stakeholders that may be interested in or affected by the proposed Project that the BLM is evaluating are invited to participate in the scoping process and, if eligible, may request, or be requested by the BLM, to participate in the development of the environmental analysis as a cooperating agency.

Authorization of this proposal may require amendments to the Socorro Field Office Resource Management Plan, the Las Cruces District Mimbres Resource Management Plan, the Sevilleta National Wildlife Refuge Comprehensive Conservation Plan, and the Cibola National Forest Land and Resource Management Plan. By this notice, the BLM is complying with requirements 43 CFR 1610.2(c) to notify the public of potential plan amendments. The BLM will integrate the land use planning process with the NEPA analysis process for this project. A Forest plan amendment may be required for this project. The 2012 Planning Rule (36 CFR part 219) requires consideration of the applicable substantive requirements as described in 36 CFR 219.8 through 219.11 that are directly related to the plan direction being added, modified, or removed by the amendment (36 CFR 219.13).

Request for Identification of Potential Alternatives, Information, Analyses, and Mitigation Measures Relevant to the Proposed Action

The BLM encourages comments concerning the proposed SunZia Southwest Transmission Project, feasible alternatives, possible measures to mitigate, minimize and/or avoid adverse environmental impacts, and any other information relevant to the proposed action. You may submit comments at any time by using one of the methods listed in the **ADDRESSES** section of this Notice. Public scoping meetings will be conducted virtually with BLM staff to explain project details and gather information from interested individuals or groups. Representatives from SunZia will be available to answer questions. You should submit comments by the close of the 30-day scoping period or 10 days after the last public meeting.

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. Any persons wishing to be added to a mailing list of interested parties can call or write to the BLM, as described in this Notice. Additional information meetings may be conducted throughout the process to keep the public informed of the progress of the EIS. (Authority: 40 CFR 1501.7 and 43 CFR 1610.2)

Steven R. Wells,

Acting New Mexico State Director.

[FR Doc. 2021–11788 Filed 6–3–21; 8:45 am]

BILLING CODE 4310–FB–P

DEPARTMENT OF THE INTERIOR

Bureau of Ocean Energy Management

[Docket No.: BOEM–2021–0029]

Notice of Intent To Prepare an Environmental Impact Statement for Revolution Wind LLC's Proposed Wind Energy Facility Offshore Rhode Island; Reopening of Comment Period and Corrections

AGENCY: Bureau of Ocean Energy Management, Interior.

ACTION: Notice; reopening of comment period and corrections.

SUMMARY: On April 30, 2021, the Bureau of Ocean Energy Management (BOEM) published the ''Notice of Intent to Prepare an [EIS] for Revolution Wind LLC's Proposed Wind Energy Facility Offshore Rhode Island'' in the **Federal Register**. The NOI announced that BOEM will prepare an EIS as part of its review of a construction and operations plan submitted by Revolution Wind LLC and provided project information. The notice stated that comments received by June 1, 2021, will be considered. This notice corrects two statements in the NOI regarding the energy capacity of the proposed wind facility and its distance

from shore. In addition, it reopens the comment period.

DATES: Comments received by June 11, 2021 will be considered.

ADDRESSES: Written comments can be submitted in any of the following ways:

• Delivered by mail or delivery service, enclosed in an envelope labeled ''Revolution Wind COP EIS,'' and addressed to Program Manager, Office of Renewable Energy, Bureau of Ocean Energy Management, 45600 Woodland Road, Sterling, Virginia 20166; or

• Through the *regulations.gov* web portal: Navigate to *http://www.regulations.gov* and search for Docket No. BOEM–2021–0029. Click on the ''Comment Now!'' button to the right of the document link. Enter your information and comment, then click ''Submit.''

FOR FURTHER INFORMATION CONTACT: Michelle Morin, BOEM Office of Renewable Energy Programs, 45600 Woodland Road, Sterling, Virginia 20166, (703) 787–1722 or *michelle.morin@boem.gov.*

SUPPLEMENTARY INFORMATION:

Technical Corrections

In the **Federal Register** of April 30, 2021, on page 22973 in the first column, line 48, under the heading ''Purpose and Need for the Proposed Action'', replace the sentence: ''The project will deliver 704 MW of power to the New England energy grid.''

The corrected sentence reads: ''The project would have the capacity to deliver up to 880 MW of power to the New England energy grid, satisfying the current PPA total of 704 MW.''

In the same edition of the **Federal Register**, on page 22973, in the second column, line 20 under the heading ''Preliminary Proposed Action and Alternatives,'' replace the sentence: ''The wind turbine generators, offshore substations, array cables, and substation interconnector cables would be located on the [Outer Continental Shelf] approximately 17.4 nautical miles (20 statute miles) south of the coast of Rhode Island.''

The corrected sentence reads: ''The wind turbine generators, offshore substations, array cables, and substation interconnector cables would be located on the Outer Continental Shelf (OCS) approximately 15 nautical miles (18 statute miles) southeast of Point Judith, Rhode Island, approximately 13 nautical miles (15 statute miles) east of Block Island, Rhode Island, approximately 7.5 nautical miles (8.5 statute miles) south of Nomans Land Island National Wildlife Refuge (uninhabited island), and between approximately 10 to 12.5 nautical miles (12 to 14 statute miles) south/southwest of varying points of the Rhode Island and Massachusetts coastlines.''

William Y. Brown,

Chief Environmental Officer, Bureau of Ocean Energy Management.

[FR Doc. 2021–11727 Filed 6–3–21; 8:45 am]

BILLING CODE 4310–MR–P

DEPARTMENT OF LABOR

Office of Disability Employment Policy

Agency Information Collection Activities; Comment Request; Research To Support the Partnership on Inclusive Apprenticeship

ACTION: Notice of information collections and request for comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, the Department of Labor (DOL) is soliciting public comments regarding this ODEP-sponsored information collection to the Office of Management and Budget (OMB) for review and approval.

DATES: Comments pertaining to this information collection are due on or before August 3, 2021.

ADDRESSES:

Electronic submission: You may submit comments and attachments electronically at *http://www.regulations.gov.* Follow the online instructions for submitting comments.

Mail submission: 200 Constitution Ave. NW, Room S–5315, Washington, DC 20210.

Comments are invited on: (1) Whether the collection of information is necessary for the proper performance of the functions of the DOL, 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 DOL's estimates of the burden and cost of the collection of information, including the validity of the methodology and assumptions used; (4) ways to enhance the quality, utility and clarity of the information collection; and (5) ways to minimize the burden of the collection of information on those who are to respond, including the use of automated collection techniques or other forms of information technology.

FOR FURTHER INFORMATION CONTACT: Meredith DeDona by telephone at 202–693–7864 (this is not a toll-free number) or by email at *DeDona.Meredith@dol.gov.*

SUPPLEMENTARY INFORMATION: The Partnership on Inclusive Apprenticeship (PIA) focuses on engagement and outreach strategies to promote and implement inclusive practices within apprenticeship programs, such as those registered with the U.S. Department of Labor's (DOL) Office of Apprenticeship. These strategies aim to enable individuals with disabilities, including working-age youth and adults ages 16–64, to gain credentials and skills to succeed in growing industries. PIA also seeks to glean federal and state policy options through such outreach and engagement, which includes several stakeholder engagement and outreach activities. The Office of Disability Employment Policy (ODEP) of the U.S. Department of Labor (DOL) intends to design and conduct a process evaluation of the DOL-funded PIA. The goal of this four-year study is to build an understanding of the experiences, barriers, and successes of PIA during the implementation of the partnership.

The overall study is comprised of several components: (1) A knowledge development phase to understand what is currently known about inclusive apprenticeship programs, review the literature on inclusive apprenticeship, and analyze existing data on inclusive apprenticeship; (2) technical assistance to PIA and its partners to understand and enhance their use of data for process improvement; and (3) a process evaluation of the implementation of PIA.

This **Federal Register** Notice provides the opportunity to comment on three proposed data collection instruments that will be used in the evaluations:

1. *Survey of PIA Apprenticeship Intermediary Organizations (AIOs), partners, and community of practice members.* Survey of up to 90 AIOs, partner organizations, and community of practice members to collect information on their role in PIA and their experiences with inclusive apprenticeship programs.

2. *Topic guide for site visit interviews with AIO program staff and partners.* Virtual semi-structured interviews with up to 12 program and partner staff for each of the approximately 6 AIOs partnering under PIA, beginning fall 2021.

3. *Focus group guide for apprentices.* Virtual semi-structured focus groups with up to 60 apprentices enrolled in inclusive apprenticeship programs, assuming that all ten invited apprentices at approximately 6 AIOs partnering under PIA agree to participate, beginning fall 2022.

This information collection is subject to the Paperwork Reduction Act (PRA). A Federal agency generally cannot

conduct or sponsor a collection of information, and the public is generally not required to respond to an information collection, unless the OMB approves it and displays a currently valid OMB Control Number. In addition, notwithstanding any other provisions of law, no person shall generally be subject to penalty for failing to comply with a collection of information that does not display a valid OMB Control Number. See 5 CFR 1320.5(a) and 1320.6.

The DOL seeks PRA authorization for this information collection for three (3) years. OMB authorization for an Information Collection Review cannot be for more than three (3) years without renewal. The DOL notes that currently approved information collection requirements submitted to the OMB receive a month-to-month extension while they undergo review.

Agency: DOL–ODEP.

Type of Review: New information collection.

Title of Collection: Research to Support the Partnership on Inclusive Apprenticeship.

OMB Control Number: 1230–0NEW.

Affected Public: Individuals or Households.

Total Estimated Number of Respondents: 74.

Frequency: Once.

Total Estimated Number of Responses: 74.

Total Estimated Annual Time Burden: 59 hours.

Total Estimated Annual Other Costs Burden: $0.

ESTIMATED ANNUAL BURDEN HOURS

Type of instrument (form/activity)	Number of respondents	Number of responses per respondent	Total number of responses	Average burden time per response (hours)	Estimated burden hours
AIO, PIA partner, and community of practice member survey	30	1	30	0.5	15
AIO program staff and partner interview topic guide	24	1	24	1.0	24
Apprentice focus group guide	20	1	20	1.0	20
Total	74		74		59

Authority: 44 U.S.C. 3506(c)(2)(A).

Dated: May 27, 2021.

Jennifer Sheehy,

Deputy Assistant Secretary, Office of Disability Employment Policy, U.S. Department of Labor.

[FR Doc. 2021–11745 Filed 6–3–21; 8:45 am]

BILLING CODE 4510–FK–P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. OSHA–2021–0001]

National Advisory Committee on Occupational Safety and Health (NACOSH): Notice of Meeting

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Notice of NACOSH meeting.

SUMMARY: The National Advisory Committee on Occupational Safety and Health (NACOSH) will meet June 22, 2021, by teleconference and WebEx.

DATES: NACOSH will meet from 1:00 p.m. to 5:00 p.m., ET, Tuesday, June 22, 2021.

ADDRESSES:

Submission of comments and requests to speak: Submit comments and requests to speak at the NACOSH meeting by June 14, 2021, identified by the docket number for this **Federal Register** notice (Docket No. OSHA–2021–0001), using the following method:

Electronically: Comments and request to speak, including attachments, must be submitted electronically at: *http://www.regulations.gov,* the Federal eRulemaking Portal. Follow the online instructions for submitting comments.

Requests for special accommodations: Submit requests for special accommodations for this NACOSH meeting by Monday, June 14, 2021, to Ms. Carla Marcellus, Directorate of Standards and Guidance, OSHA, U.S. Department of Labor; telephone: (202) 693–1865; email: *marcellus.carla@dol.gov.*

Instructions: All submissions must include the agency name and the OSHA docket number for this **Federal Register** notice (Docket No. OSHA–2021–0001). 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.

Docket: To read or download documents in the public docket for this NACOSH meeting, go to *http://www.regulations.gov.* All documents in the public docket are listed in the index; however, some documents (*e.g.,* copyrighted material) are not publicly available to read or download through *http://www.regulations.gov.* All submissions are available for inspection and, when permitted, copying through the OSHA Docket Office at the above address. For information on using *http://www.regulations.gov* to make submissions or to access the docket, click on the ''Help'' tab at the top of the homepage. Contact the OSHA Docket Office at (202) 693–2350 for information about materials not available through that website and for assistance in using the internet to locate submissions and other documents in the docket.

FOR FURTHER INFORMATION CONTACT:

For press inquiries: Mr. Frank Meilinger, Director, OSHA Office of Communications, U.S. Department of Labor; telephone: (202) 693–1999; email: *meilinger.francis2@dol.gov.*

For general information about NACOSH: Ms. Amy Wangdahl, Director, Office of Maritime and Agriculture, OSHA, U.S. Department of Labor; telephone: (202) 693–2066; email: *wangdahl.amy@dol.gov.*

Telecommunication requirements: For additional information about the telecommunication requirements for the meeting, please contact Ms. Carla Marcellus, Directorate of Standards and Guidance, OSHA, U.S. Department of Labor; telephone: (202) 693–1865; email: *marcellus.carla@dol.gov.*

*For copies of this **Federal Register** Notice:* 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 at OSHA's web page at *www.osha.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

NACOSH was established by Section 7(a) of the Occupational Safety and

Health Act of 1970 (OSH Act) (29 U.S.C. 651, 656) to advise, consult with, and make recommendations to the Secretary of Labor and the Secretary of Health and Human Services on matters relating to the administration of the OSH Act. NACOSH is a continuing advisory committee of indefinite duration.

NACOSH operates in accordance with the Federal Advisory Committee Act (FACA) (5 U.S.C. App. 2), its implementing regulations (41 CFR part 102–3), and OSHA's regulations on NACOSH (29 CFR part 1912a).

II. Meeting Information

Attendance at this NACOSH meeting will be by teleconference and WebEx only. The teleconference dial-in number and passcode are as follows: Dial-in number: 1–800–369–1663; Passcode: 2863848 and the WebEx link is: *https://usdolee.webex.com/usdolee/onstage/g.php?MTID=e96527c00b5fc5d6f8a680295ece34214* and the meeting password is: Welcome!24. The tentative agenda will include an update from OSHA's Acting Assistant Secretary, remarks from the Director of the National Institute for Occupational Safety and Health, a discussion of occupational safety and health issues, and a discussion of NACOSH's previous work.

Authority and Signature

James S. Frederick, Acting Assistant Secretary of Labor for Occupational Safety and Health, authorized the preparation of this notice under the authority granted by 29 U.S.C. 655(b)(1) and 656(b), 5 U.S.C. App. 2, Secretary of Labor's Order No. 8–2020 (85 FR 58393, September 18, 2020) and 29 CFR part 1912 and 1912a.

Signed at Washington, DC, on May 13, 2021.

James S. Frederick,

Acting Assistant Secretary of Labor for Occupational Safety and Health.

[FR Doc. 2021–11550 Filed 6–3–21; 8:45 am]

BILLING CODE 4510–26–P

POSTAL REGULATORY COMMISSION

[Docket No. R2021–2; Order No. 5905]

Market-Dominant Price Change; Notice and Order on Price Adjustments and Classification Changes for Market Dominant Products

Issued June 1, 2021.

Before Commissioners: Michael Kubayanda, Chairman; Ashley E. Poling, Vice Chairwoman; Mark Acton; Ann C. Fisher; and Robert G. Taub

I. Introduction

On May 28, 2021, the Postal Service filed a notice of price adjustments affecting market dominant domestic and international products and services, along with temporary mailing promotions and proposed classification changes to the Mail Classification Schedule (MCS).[1] The planned price adjustments described in the Notice are the first to be filed and reviewed pursuant to the new regulations of 39 CFR part 3030, which were finalized in Order No. 5763 and include new forms of rate authority.[2] The intended effective date for the planned price adjustments is August 29, 2021. Notice at 1. The Notice, which was filed pursuant to 39 CFR part 3030, triggers a notice-and-comment proceeding. 39 CFR 3030.125.

II. Overview of the Postal Service's Filing

The Postal Service's filing consists of the Notice, which the Postal Service represents addresses the data and information required under 39 CFR 3030.122 and 39 CFR 3030.123; four attachments (Attachments A–D) to the Notice; and six public library references and one non-public library reference.

Attachment A presents the planned price and related product description changes to the MCS. Notice, Attachment A. Attachments B and C address workshare discounts and the price cap calculation, respectively. *Id.* Attachments B and C. Attachment D presents the 2022 promotions schedule and descriptions of the 2022 promotions. *Id.* Attachment D.

Five public library references provide supporting documentation for the five classes of mail. Notice at 5. The Postal Service also filed a public library reference containing workpapers for Seamless Volumes for all mail classes. *Id.* at 12. It also filed a library reference pertaining to the two international mail products within First-Class Mail (Outbound Single-Piece First-Class Mail International and Inbound Letter Post) under seal and applied for non-public treatment of those materials.[3]

The Postal Service's planned percentage changes by class are, on average, as follows:

Market dominant class	Planned price adjustment (%)
First-Class Mail	6.814
USPS Marketing Mail	6.815
Periodicals	8.806
Package Services	8.806
Special Services	6.808

Notice at 5.

Price adjustments for products within classes vary from the average. *See, e.g., id.* at 7, 12 (Table 6 showing range for First-Class Mail products and Table 10 showing range for USPS Marketing Mail products). Most of the planned adjustments entail increases to market dominant rates and fees; however, in a few instances, the Postal Service proposes either no adjustment or a decrease. *See id.* at 7, 21, 27.

The Postal Service identifies the effect of its proposed classification changes on the MCS in Attachment A. *Id.* at 36; *id.* Attachment A. The Postal Service also seeks approval for the following six promotions for the indicated periods:

- Tactile, Sensory and Interactive Mailpiece Engagement Promotion (February 1–July 31, 2022);
- Emerging and Advanced Technology Promotion (March 1–August 31, 2022);
- Earned Value Reply Mail Promotion (April 1–June 30, 2022);
- Personalized Color Transpromo Promotion (July 1–December 31, 2022);
- Mobile Shopping Promotion (September 1–December 31, 2022); and
- Informed Delivery Promotion (August 1–December 31, 2022).

Id. Attachment D.

III. Initial Administrative Actions

Pursuant to 39 CFR 3030.124(a), the Commission establishes Docket No. R2021–2 to consider the planned price adjustments for market dominant postal products and services, as well as the related classification changes, identified in the Notice. The Commission invites comments from interested persons on whether the Postal Service's planned price adjustments are consistent with applicable statutory and regulatory requirements. 39 CFR 3030.125. The applicable statutory and regulatory requirements the Commission considers in its review are the requirements of 39 CFR part 3030, Commission directives and orders, and 39 U.S.C. 3626, 3627, and 3629. 39 CFR 3030.126(b). Comments are due no later than June 28, 2021. 39 CFR 3030.124(f).

The public portions of the Postal Service's filing are available for review on the Commission's website (*http://www.prc.gov*). Comments and other

[1] United States Postal Service Notice of Market-Dominant Price Change, May 28, 2021 (Notice).

[2] Docket No. RM2017–3, Order Adopting Final Rules for the System of Regulating Rates and Classes for Market Dominant Products, November 30, 2020 (Order No. 5763).

[3] *See* USPS Notice of Filing USPS–LR–R2021–2–NP1, May 28, 2021, Attachment 1.

material filed in this proceeding will be available for review on the Commission's website, unless the information contained therein is subject to an application for non-public treatment. The Commission's rules on non-public materials (including access to documents filed under seal) appear in 39 CFR part 3011.

Pursuant to 39 U.S.C. 505, the Commission appoints Richard A. Oliver to represent the interests of the general public (Public Representative) in this proceeding.

IV. Ordering Paragraphs

It is ordered:

1. The Commission establishes Docket No. R2021–2 to consider the planned price adjustments for market dominant postal products and services, as well as the related classification changes, identified in the Postal Service's May 28, 2021 Notice.

2. Comments on the planned price adjustments and related classification changes are due no later than June 28, 2021.

3. Pursuant to 39 U.S.C. 505, Richard A. Oliver is appointed to serve as an officer of the Commission (Public Representative) to represent the interests of the general public in this proceeding.

4. The Commission directs the Secretary of the Commission to arrange for prompt publication of this notice in the **Federal Register**.

By the Commission.

Erica A. Barker,

Secretary.

[FR Doc. 2021–11776 Filed 6–3–21; 8:45 am]

BILLING CODE P

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 34292]

Notice of Applications for Deregistration Under Section 8(f) of the Investment Company Act of 1940

May 28, 2021.

The following is a notice of applications for deregistration under section 8(f) of the Investment Company Act of 1940 for the month of May 2021. A copy of each application may be obtained via the Commission's website by searching for the file number, or for an applicant using the Company name box, at *http://www.sec.gov/search/search.htm* or by calling (202) 551–8090. An order granting each application will be issued unless the SEC orders a hearing. Interested persons may request a hearing on any application by emailing the SEC's Secretary at *Secretarys-Office@sec.gov* and serving the relevant applicant with a copy of the request by email, if an email address is listed for the relevant applicant below, or personally or by mail, if a physical address is listed for the relevant applicant below. Hearing requests should be received by the SEC by 5:30 p.m. on June 22, 2021, and should be accompanied by proof of service on applicants, in the form of an affidavit or, for lawyers, a certificate of service. Pursuant to Rule 0–5 under the Act, hearing requests should state the nature of the writer's interest, any facts bearing upon the desirability of a hearing on the matter, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Commission's Secretary at *Secretarys-Office@sec.gov*.

ADDRESSES: The Commission: *Secretarys-Office@sec.gov*.

FOR FURTHER INFORMATION CONTACT: Shawn Davis, Assistant Director, at (202) 551–6413 or Chief Counsel's Office at (202) 551–6821; SEC, Division of Investment Management, Chief Counsel's Office, 100 F Street NE, Washington, DC 20549–8010.

A&Q Masters Fund [File No. 811–22859]

Summary: Applicant, a closed-end investment company, seeks an order declaring that it has ceased to be an investment company. The applicant has transferred its assets to A&Q Long/Short Strategies Fund LLC., and on March 31, 2021 made a final distribution to its shareholders based on net asset value. Expenses of $383,202.32 incurred in connection with the reorganization were paid by the acquiring fund.

Filing Date: The application was filed on April 7, 2021.

Applicant's Address: frank.pluchino@ubs.com.

Schroder Global Series Trust [File No. 811–21364]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. On February 25, 2021, applicant made a liquidating distribution to its shareholders based on net asset value. Expenses of approximately $54,000 incurred in connection with the liquidation were paid by the applicant.

Filing Date: The application was filed on April 21, 2021.

Applicant's Address: sean.graber@morganlewis.com.

Van Kampen Debt Opportunity Fund [File No. 811–22296]

Summary: Applicant, a closed-end investment company, seeks an order declaring that it has ceased to be an investment company. Applicant has never made a public offering of its securities and does not propose to make a public offering or engage in business of any kind.

Filing Dates: The application was filed on November 23, 2020 and amended on March 25, 2021.

Applicant's Address: Taylor.Edwards@invesco.com.

Van Kampen Global Equity Dividend & Income Fund [File No. 811–22134]

Summary: Applicant, a closed-end investment company, seeks an order declaring that it has ceased to be an investment company. Applicant has never made a public offering of its securities and does not propose to make a public offering or engage in business of any kind.

Filing Dates: The application was filed on November 23, 2020 and amended on March 25, 2021.

Applicant's Address: Taylor.Edwards@invesco.com.

Western Asset Corporate Loan Fund Inc. [File No. 811–08985]

Summary: Applicant, a closed-end investment company, seeks an order declaring that it has ceased to be an investment company. On November 30, 2020, applicant made a liquidating distributions to its shareholders based on net asset value. Expenses of $66,131 incurred in connection with the liquidation were paid by the applicant's investment adviser, or their affiliates

Filing Date: The application was filed on April 1, 2021.

Applicant's Address: George.Hoyt@franklintempleton.com.

Western Asset Middle Market Debt Fund Inc. [File No. 811–22734]

Summary: Applicant, a closed-end investment company, seeks an order declaring that it has ceased to be an investment company. On December 22, 2020, applicant made a liquidating distributions to its shareholders based on net asset value. Expenses of $13,411 incurred in connection with the liquidation were paid by the applicant.

Filing Date: The application was filed on March 18, 2021.

Applicant's Address: George.Hoyt@franklintempleton.com.

Western Asset Variable Rate Strategic Fund Inc. [File No. 811–21609]

Summary: Applicant, a closed-end investment company, seeks an order

declaring that it has ceased to be an investment company. On November 30, 2020, applicant made a liquidating distributions to its shareholders based on net asset value. Expenses of $66,056 incurred in connection with the liquidation were paid by the applicant's investment adviser, or their affiliates.

Filing Date: The application was filed on April 1, 2021.

Applicant's Address: George.Hoyt@franklintempleton.com.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2021–11715 Filed 6–3–21; 8:45 am]

BILLING CODE 8011–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #16932 and #16933; Kentucky Disaster Number KY–00084]

Presidential Declaration Amendment of a Major Disaster for the Commonwealth of Kentucky

AGENCY: U.S. Small Business Administration.

ACTION: Amendment 1.

SUMMARY: This is an amendment of the Presidential declaration of a major disaster for the Commonwealth of Kentucky (FEMA–4595–DR), dated 04/23/2021.

Incident: Severe Storms, Flooding, Landslides, and Mudslides.

Incident Period: 02/27/2021 through 03/14/2021.

DATES: Issued on 05/27/2021.

Physical Loan Application Deadline Date: 06/22/2021.

Economic Injury (EIDL) Loan Application Deadline Date: 01/24/2022.

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 Kentucky, dated 04/23/2021, is hereby amended to include the following areas as adversely affected by the disaster:

Primary Counties (Physical Damage and Economic Injury Loans): Anderson, Boyd, Clark, Fayette, Franklin, Greenup, Jackson, Jessamine, Knott, Laurel, Lawrence, Leslie, Letcher, Lincoln, Madison, Morgan, Owsley, Perry, Pulaski, Rockcastle, Warren, Woodford.

Contiguous Counties (Economic Injury Loans Only):

Kentucky: Allen, Barren, Bourbon, Boyle, Butler, Carter, Casey, Edmonson, Elliott, Garrard, Harlan, Henry, Lewis, Logan, McCreary, Mercer, Nelson, Owen, Rowan, Russell, Scott, Shelby, Simpson, Spencer, Washington, Wayne, Whitley.

Ohio: Lawrence, Scioto.

Virginia: Wise.

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. 2021–11742 Filed 6–3–21; 8:45 am]

BILLING CODE 8026–03–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #16993 and #16994; Texas Disaster Number TX–00599]

Administrative Declaration of a Disaster for the State of Texas

AGENCY: U.S. Small Business Administration.

ACTION: Notice.

SUMMARY: This is a notice of an Administrative declaration of a disaster for the State of Texas dated 05/27/2021.

Incident: Severe Storms and Tornadoes.

Incident Period: 03/27/2021.

DATES: Issued on 05/27/2021.

Physical Loan Application Deadline Date: 07/26/2021.

Economic Injury (EIDL) Loan Application Deadline Date: 02/28/2022.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street SW, Suite 6050, Washington, DC 20416, (202) 205–6734.

SUPPLEMENTARY INFORMATION: Notice is hereby given that as a result of the Administrator's disaster declaration, applications for disaster loans may be filed at the address listed above or other locally announced locations.

The following areas have been determined to be adversely affected by the disaster:

Primary Counties: Panola.

Contiguous Counties/Parishes:

Texas: Harrison, Rusk, Shelby.

Louisiana: Caddo, De Soto.

The Interest Rates are:

	Percent
For Physical Damage:	
Homeowners with Credit Available Elsewhere	2.500
Homeowners without Credit Available Elsewhere	1.250
Businesses with Credit Available Elsewhere	6.000
Businesses without Credit Available Elsewhere	3.000
Non-Profit Organizations with Credit Available Elsewhere	2.000
Non-Profit Organizations without Credit Available Elsewhere	2.000
For Economic Injury:	
Businesses & Small Agricultural Cooperatives without Credit Available Elsewhere	3.000
Non-Profit Organizations without Credit Available Elsewhere	2.000

The number assigned to this disaster for physical damage is 16993 B and for economic injury is 16994 0.

The States which received an EIDL Declaration # are Texas, Louisiana.

(Catalog of Federal Domestic Assistance Number 59008)

Isabella Guzman,

Administrator.

[FR Doc. 2021–11739 Filed 6–3–21; 8:45 am]

BILLING CODE 8026–03–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #16968 and #16969; Georgia Disaster Number GA–00125]

Presidential Declaration Amendment of a Major Disaster for Public Assistance Only for the State of Georgia

AGENCY: U.S. Small Business Administration.

ACTION: Amendment 1.

SUMMARY: This is an amendment of the Presidential declaration of a major disaster for Public Assistance Only for the State of Georgia (FEMA–4600–DR), dated 05/05/2021.

Incident: Severe Storms and Tornadoes.

Incident Period: 03/25/2021 through 03/26/2021.

DATES: Issued on 05/27/2021.

Physical Loan Application Deadline Date: 07/06/2021.

Economic Injury (EIDL) Loan Application Deadline Date: 02/07/2022.

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 Private Non-Profit organizations in the State of Georgia, dated 05/05/2021, is hereby amended to include the following areas as adversely affected by the disaster.

Primary Counties: Gordon.

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. 2021–11741 Filed 6–3–21; 8:45 am]

BILLING CODE 8026–03–P

DEPARTMENT OF STATE

[Public Notice: 11432]

Notice of Determinations; Culturally Significant Objects Being Imported for Exhibition—Determinations: ''Monet at Étretat'' 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 ''Monet at Étretat'' at the Seattle Art Museum, Seattle, Washington, 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, Delegation of Authority No. 236–3 of August 28, 2000, and Delegation of Authority No. 257–1 of December 11, 2015.

Aleisha Woodward,

Deputy Assistant Secretary for Policy, Bureau of Educational and Cultural Affairs, Department of State.

[FR Doc. 2021–11790 Filed 6–3–21; 8:45 am]

BILLING CODE 4710–05–P

DEPARTMENT OF STATE

[Public Notice: 11433]

Bureau of Political-Military Affairs; Statutory Debarment Under the Arms Export Control Act and the International Traffic in Arms Regulations

ACTION: Notice.

SUMMARY: Notice is hereby given that the Department of State has imposed statutory debarment under the International Traffic in Arms Regulations (''ITAR'') on persons convicted of violating, or conspiracy to violate, the Arms Export Control Act (AECA).

DATES: Debarment imposed as of June 4, 2021.

FOR FURTHER INFORMATION CONTACT: Jae E. Shin, Director, Office of Defense Trade Controls Compliance, Bureau of Political-Military Affairs, Department of State. (202) 632–2107.

SUPPLEMENTARY INFORMATION: Section 38(g)(4) of the AECA, 22 U.S.C. 2778(g)(4), restricts the Department of State from issuing licenses for the export of defense articles or defense services where the applicant, or any party to the export, has been convicted of violating certain statutes, including section 38 of the AECA. The Department refers to this restriction as a limitation on ''export privileges,'' and implements it through section 127.11 of the ITAR. The statute and regulations permit the President to make certain exceptions to the restriction on export privileges on a case-by-case basis. Section 127.7(b) of the ITAR also provides for ''statutory debarment'' of any person who has been convicted of violating or conspiring to violate the AECA. Under this policy, persons subject to statutory debarment are prohibited from participating directly or indirectly in any activities that are regulated by the ITAR.

Statutory debarment is based solely upon conviction in a criminal proceeding, conducted by a United States court, and as such the administrative debarment procedures outlined in part 128 of the ITAR are not applicable.

It is the policy of the Department of State that statutory debarment as described in section 127.7 of the ITAR lasts for a three-year period following the date of conviction. Reinstatement from the policy of statutory debarment is not automatic, and in all cases the debarred person must submit a request to the Department of State and be approved for reinstatement from statutory debarment before engaging in any activities subject to the ITAR.

Department of State policy permits debarred persons to apply to the Director, Office of Defense Trade Controls Compliance, for reinstatement from statutory debarment beginning one year after the date of the debarment. In response to a request for reinstatement from statutory debarment, the Department may determine either to rescind only the statutory debarment pursuant to section 127.7(b), or to both rescind the statutory debarment pursuant to section 127.7(b) and reinstate export privileges as described in section 127.11 of the ITAR. See 84 FR 7,411 for discussion on the Department's policy regarding actions to both rescind the statutory debarment and reinstate export privileges. The reinstatement of export privileges can be made only after the statutory requirements of section 38(g)(4) of the AECA have been satisfied.

Certain exceptions, known as transaction exceptions, may be made to this debarment determination on a case-by-case basis. However, such an exception would be granted only after a full review of all circumstances, paying particular attention to the following factors: Whether an exception is warranted by overriding U.S. foreign policy or national security interests; whether an exception would further law enforcement concerns that are consistent with the foreign policy or national security interests of the United States; or whether other compelling circumstances exist that are consistent with the foreign policy or national security interests of the United States, and that do not conflict with law enforcement concerns. Even if exceptions are granted, the debarment continues until subsequent reinstatement from statutory debarment.

Pursuant to section 38(g)(4) of the AECA and sections 127.7(b) and (c)(1) of the ITAR, the following persons, having been convicted in a U.S. District Court, are denied export privileges and are statutorily debarred as of the date of this

notice (Name; Date of Judgment; Judicial District; Case No.; Month/Year of Birth):

(1) Danso, Ronald Adjei; September 15, 2020; District of Utah; 2:19–cr–00184–JNP; November 1968.

(2) Higuera, Julian Alonso; September 24, 2020; District of Arizona; 4:16–cr–00437–RM–DTF; October 1990.

(3) Li, Qingshan; June 12, 2020; Southern District of California; 3:19–cr–02564–CAB; February 1985.

(4) Park, Si Mong; September 14, 2020; District of the District of Columbia; 1:17–cr–00228–RC; September 1970.

(5) Rubio, Maritza; June 6, 2019; District of Arizona; 4:17–cr–02027–CKJ–EJM; February 1979.

(6) Sun, Wei; November 18, 2020; District of Arizona; 4:19–cr–00472–RM–JR; December 1971.

(7) Williams, Randy Lew; March 3, 2021; Western District of Oklahoma; 5:20–cr–00106–JD; August 1963.

At the end of the three-year period following the date of conviction, the above-named persons remain debarred unless a request for reinstatement from statutory debarment is approved by the Department of State.

Pursuant to section 120.1(c) of the ITAR, debarred persons are generally ineligible to participate in activity regulated under the ITAR. Also, under section 127.1(d) of the ITAR, any person who has knowledge that another person is ineligible pursuant to section 120.1(c)(2) of the ITAR may not, without disclosure to and written approval from the Directorate of Defense Trade Controls, participate, directly or indirectly, in any ITAR-controlled transaction where such ineligible person may obtain benefit therefrom or have a direct or indirect interest therein.

This notice is provided for purposes of making the public aware that the persons listed above are prohibited from participating directly or indirectly in activities regulated by the ITAR, including any brokering activities and any export from or temporary import into the United States of defense articles, technical data, or defense services in all situations covered by the ITAR. Specific case information may be obtained from the Office of the Clerk for the U.S. District Courts mentioned above and by citing the court case number where provided.

Timothy A. Betts,

Acting Assistant Secretary, Bureau of Political-Military Affairs, U.S. Department of State.

[FR Doc. 2021–11737 Filed 6–3–21; 8:45 am]

BILLING CODE 4710–25–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Summary Notice No. 2021–2072]

Petition for Exemption; Summary of Petition Received; MIL2ATP, Inc.

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

ACTION: Notice.

SUMMARY: This notice contains a summary of a petition seeking relief from specified requirements of Federal Aviation Regulations. The purpose of this notice is to improve the public's awareness of, and participation in, FAA's exemption process. Neither publication of this notice nor the inclusion nor omission of information in the summary is intended to affect the legal status of the petition or its final disposition.

DATES: Comments on this petition must identify the petition docket number and must be received on or before June 24, 2021.

ADDRESSES: Send comments identified by docket number FAA–2021–0315 using any of the following methods:

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

Privacy: In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to *http://www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *http://www.dot.gov/privacy.*

Docket: Background documents or comments received may be read at *http://www.regulations.gov* at any time. Follow the online instructions for accessing the docket or go to the Docket Operations in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE, Washington, DC 20590–0001, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Nia Daniels, (202) 267–7626, Office of Rulemaking, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591.

This notice is published pursuant to 14 CFR 11.85.

Timothy R. Adams,

Deputy Executive Director, Office of Rulemaking.

Petition for Exemption

Docket No.: FAA–2021–0315.
Petitioner: MIL2ATP, Inc.
Section(s) of 14 CFR Affected: 61.156.
Description of Relief Sought: MIL2ATP, Inc., is an approved training provider of the airline transport pilot certification training program (ATP CTP) under 14 Code of Federal Regulations (14 CFR) part 141. It is seeking an exemption from 14 CFR 61.156(a) to use video teleconferencing technology in lieu of classroom instruction to teach the academic portion of the ATP CTP.

[FR Doc. 2021–11744 Filed 6–3–21; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Transit Administration

Notice of Intent To Prepare an Environmental Impact Statement, Port Authority Bus Terminal Replacement Project, City of New York, New York County, New York

AGENCY: Federal Transit Administration, DOT.

ACTION: Notice of intent to prepare an Environmental Impact Statement.

SUMMARY: The Federal Transit Administration (FTA), as lead Federal agency, and the Port Authority of New York and New Jersey (PANYNJ) as local project sponsor and joint lead agency, intends to prepare an Environmental Impact Statement (EIS) to evaluate potential benefits and impacts of the PANYNJ proposal (the Proposed Project) to construct a new Bus Terminal and associated infrastructure (the Replacement Facility) in Midtown Manhattan in the City of New York, New York. The Proposed Project to be evaluated in the EIS includes both the Replacement Facility, and four private, high-rise buildings (three commercial and one mixed-use retail/residential) to

be built on PANYNJ property consistent with present as-of-right zoning. The Replacement Facility is necessary because the existing Port Authority Bus Terminal (PABT) has significant capacity and operational constraints, is aging and obsolete, and cannot meet forecasted increases in bus service demand. FTA, in coordination with PANYNJ, will prepare the EIS in accordance with the National Environmental Policy Act (NEPA), the Fixing America's Surface Transportation Act (FAST Act), and, as appropriate, the New York State Environmental Quality Review Act (SEQRA) and City of New York's City Environmental Quality Review (CEQR). This Notice of Intent (NOI) initiates public scoping for the EIS, and provides information on the Proposed Project, the Project's purpose and need, and the alternatives being considered for evaluation in the EIS. This NOI invites public comments on environmental impacts that may be associated with the Proposed Project and alternatives. Interested members of the public, tribes, and agencies are invited to submit comments on the proposed scope of the EIS, PANYNJ's purpose and need, the identification of alternatives to be considered, the environmental benefits and impacts to be evaluated, and any other project-related issues or analyses. In consideration of the Federal Government's COVID–19 Emergency Declaration dated March 13, 2020, FTA has determined that virtual public meetings and hearings are a permissible and useful tool to provide for public involvement in the NEPA process.

DATES: The 45-day public scoping period will begin on the date of publication of this Notice and continue through July 19, 2021. Written comments may be submitted in hard copy via mail, electronically via email, and through the project website to the addresses listed in **ADDRESSES** below. Comments may also be provided via voicemail at (929) 502–7304. Although the public can send comments through the mail, due to the COVID–19 national emergency, we recommend using the other communication methods to provide any scoping comments.

Instructions for participating in the livestream virtual scoping meetings are available at *www.pabtreplacement.com,* along with scoping material. The registration instructions will be available on the Port Authority project website a minimum of two weeks prior to the public meeting. PANYNJ will conduct livestreamed virtual public scoping meetings on June 23 and 24, 2021, from 2:30 p.m. to 4:00 p.m., and from 6:30 p.m. to 8:00 p.m.

Individuals who require special assistance, such as translation, captioning, or signing services, to participate in the scoping meeting should make the request by calling (929) 502–7304 or emailing *PABTReplacementNEPA@panynj.gov* by June 17, 2021.

To ensure consideration during the development of the EIS, written comments on the scope of the EIS must be submitted by 5:00 p.m. on July 19, 2021. The date of all public scoping meetings will be announced at least 15 days in advance of the actual meetings through a notice to be published in local newspapers and online on the project's website at *www.pabtreplacement.com.*

ADDRESSES: Please send written comments to: The Port Authority of New York and New Jersey, World Trade Center, 150 Greenwich Street, 25th Floor, New York, NY 10007; Attention: Elizabeth Rogak.

Or Project Email: PABTReplacementNEPA@panynj.gov.

Or leave a comment via voicemail at: (929) 502–7304.

Information about the Proposed Project, scoping, and the EIS will be available on the project's website at *www.pabtreplacement.com.*

FOR FURTHER INFORMATION CONTACT: Donald Burns, FTA Director of Planning and Program Development, Email: *Donald.Burns@dot.gov;* Telephone: (212) 668–2203.

SUPPLEMENTARY INFORMATION:

Proposed Project. PANYNJ is proposing to replace the existing PABT and associated facilities, including the terminal and ramps. Completion of the Replacement Facility is anticipated by 2032 and the four private, high-rise buildings by 2040. The project contemplates use of PANYNJ land and air rights for private development to help fund the Replacement Facility. PANYNJ allocated $3.5 billion towards the Replacement Facility in its 2017 ten-year capital program, and PANYNJ intends to seek financial support for the project from the United States Department of Transportation, including FTA funding. The Replacement Facility is included in the Metropolitan Transportation Plans of the New York Metropolitan Transportation Council and the North Jersey Transportation Planning Authority, as a regionally significant project.

Purpose of and Need for the Proposed Replacement Facility. The Replacement Facility's primary purpose is to meet the forecasted Trans-Hudson commuter and intercity bus and passenger demand for bus services that operate within the PABT. The proposed Replacement Facility is intended to: (1) Address capacity constraints and operational limitations of the existing PABT; (2) improve bus storage and staging to reduce bus idling and on-street congestion; and (3) improve bus network reliability. The existing PABT suffers from the pressures of accommodating growing travel demand with aging infrastructure and systems, increasingly problematic functional and physical obsolescence of assets and facilities, and fundamental capacity challenges. Without significant investment, the existing PABT South Wing bus operating levels are likely to be functionally obsolete between 2027 and 2037. In addition, the system of roadways, tunnel facilities, and services connecting to the Midtown core and the PABT are increasingly sensitive to disruption.

Based on the above purpose and need, PANYNJ established the following project goals for the Replacement Facility:

- Improve Trans-Hudson bus operations;
- Improve the passenger experience within the Terminal;
- Provide seamless passenger accessibility (including, as applicable, ADA-compliant accessibility) to Eighth Avenue mass transit options;
- Strive to achieve consistency with local and regional land use plans and initiatives;
- Develop a project that optimizes life-cycle costs; and
- Reduce the impacts of bus services on the built and natural environment.

Objectives were identified to assess achievement of each project goal in the Final Scoping Report.

Scoping. Consistent with NEPA, PANYNJ conducted early scoping and planning to identify a Locally Preferred Alternative, which FTA will consider during the NEPA scoping process. PANYNJ released its Draft Scoping Document on May 23, 2019, commencing a 120-day public comment period on the Project. PANYNJ held public meetings in New York City and New Jersey on July 10, 2019 and September 5, 2019.

PANYNJ released a Final Scoping Report on January 21, 2021. In the Final Scoping Report, PANYNJ summarizes the process and evaluations undertaken since the Draft Scoping Document, as well as the public outreach conducted during early scoping. For this phase of the Project the NEPA Scoping Information Packet released with the NOI can be found on the project website.

Screening of Potential Alternatives. PANYNJ identified 13 potential alternatives for the Proposed Project in the Draft Scoping Document, drawn from extensive earlier planning and public outreach. PANYNJ screened these alternatives and narrowed them to the three listed below based on criteria requiring that an alternative: (1) Meet projected demand for bus passenger service in 2040, and (2) not utilize significant private property.

- The Build-in-Place Alternative, which would replace the current terminal at its same location;
- The Perkins Eastman Design and Deliverability Alternative, which would place all operations at the lower levels of the Jacob K. Javits Convention Center (Javits Center); and
- The Regional Plan Association (RPA) Alternative, which would locate commuter operations at a rehabilitated terminal at the present location, and intercity bus operations and storage/staging in a portion of the lower level of the Javits Center.

Based on public comments, PANYNJ developed a third screening criterion: (3) Maintain the present seamless passenger connectivity to the Eighth Avenue mass transit options and pedestrian accessibility to those options and Midtown. As noted in the Final Scoping Report, this criterion eliminated the remaining two alternatives that used the Javits Center, which is remote from the Eighth Avenue mass transit options and Midtown, with the Build-In-Place Alternative remaining.

The Enhanced Build-in-Place Alternative. PANYNJ incorporated public and stakeholder comments into its planning process, as well as two concepts received during early scoping: (1) Construct an additional structure within PABT property to accommodate certain curbside intercity buses and bus storage/staging operations, rather than utilize local streets/surface lots; and (2) have this additional structure serve as ''swing space'' for bus terminal operations during construction of the new PABT, allowing continuous bus service operation. After conducting further design and analysis, PANYNJ developed an Enhanced Build-in-Place Alternative (the Locally Preferred Alternative) that would comprise:

- Passenger operations in an East (or Main) Facility, generally occupying the footprint of the existing PABT and ramps between Eighth Avenue and Ninth Avenue between 40th Street and 42nd Street, with an enclosed multi-level portion extending across Ninth Avenue between 40th Street and 41st Street, an enclosed multi-level portion extending across 40th Street between Ninth Avenue and Tenth Avenue, and an underpass under Ninth Avenue between 40th Street and 41st Street linking Dyer Avenue to the Lower Level;
- A new building (the West Adjunct) for permanent commuter bus storage and staging, as well as permanent intercity bus storage and intercity bus operations, occupying the western portion of the block between Ninth Avenue and Tenth Avenue between 39th Street and 40th Street, connected to the East Facility through an enclosed pedestrian and vehicular structure crossing 40th Street;
- A new ramp structure located west of Tenth Avenue (on Galvin Plaza between Eleventh Avenue and existing Ramp 96), with new ramps crossing Tenth Avenue to connect to the East Facility; and
- Open space/green space on two blocks: Lot 9, between 37th Street and 38th Street and Ninth Avenue and Tenth Avenue, and Lot 10, between 38th Street and 39th Street and Ninth Avenue and Tenth Avenue. During phased construction, deck-overs of these spaces would be used to accommodate operational needs. When construction is complete, these deck-overs would be converted from operational space to green space, resulting in approximately three additional acres of new community space.

The ''swing space'' concept would allow the new terminal to be built from the ground up, as is typical, rather than ''top-down'' over the existing terminal (*i.e.,* the upper floors would be built over the existing operating terminal, with new floors built below the upper floors as construction progresses). Once the East Facility is constructed, the West Adjunct would be repurposed for bus storage and staging and to accommodate certain curbside intercity buses.

PANYNJ seeks to offset increased costs in the Enhanced Build-in-Place Alternative by generating revenue from new joint-development, and by seeking additional financial assistance from FTA. PANYNJ may seek additional financial assistance from other government sources.

The private development would be comprised of four high-rise buildings built entirely on PANYNJ properties in the vicinity of the Replacement Facility, consistent with present as-of-right zoning (three commercial and one mixed-use retail/residential), at the following locations:

- West side of Eighth Avenue between 41st Street and 42nd Street (up to approximately 3.0 million gross square feet of commercial space);
- East side of Ninth Avenue between 40th Street and 41st Street (up to approximately 2.0 million gross square feet of commercial space);
- East side of Eleventh Avenue between 39th Street and 40th Street (up to approximately 2.3 million gross square feet of commercial space); and
- West side of Tenth Avenue between 39th Street and 40th Street (up to approximately 900,000 gross square feet of mixed-use (retail/residential) space).

EIS Process and Role of Participating Agencies and the Public. FTA and PANYNJ are proposing a Study Area for the EIS to include an area approximately ¼-mile from the proposed Replacement Facility, which is inclusive of any potential new construction, temporary operations, or any on- or off-site construction activities. Since the Proposed Project comprises several integrated components, a broad Study Area has been defined to capture those blocks containing, or substantially adjacent to, potential new construction. The Study Area is defined as the area from the Hudson River east to Sixth Avenue, and from 30th Street to 49th Street. This is the area where potential primary direct or indirect impacts may be experienced.

Consistent with NEPA, FTA and PANYNJ will evaluate, with input from the public, and other Federal, State, and local agencies, the potential impacts of the proposed alternatives on the natural, built, and social environments from both construction and operation. The EIS will evaluate the potential for impacts in at least the following areas: Land use, zoning and public policy, community facilities, open space, socioeconomic conditions, environmental justice, air quality (including consideration of greenhouse gas emissions and climate change), historic properties and cultural resources, urban design and visual resources, transportation, noise and vibration, natural resources, water quality, utilities, energy, contaminated materials, construction, and safety and security. Potential impacts have been preliminarily identified in the following areas: Potential historic impacts to the McGraw-Hill Building (National Historic Landmark/National Register of Historic Places) and the Garment Center Historic District (National Register of Historic Places); Potential traffic impacts in the vicinity of PABT and adjoining streets; potential air quality impacts; and potential noise impacts. Measures to avoid, minimize, and mitigate any significant adverse impacts will be identified.

An Agency Coordination Plan (Plan) will be developed within 90 days of this

NOI's publication date to guide a comprehensive public outreach program, and once available, it will be published on the project's website and the Federal Permitting Dashboard at *https://www.permits.performance.gov/.* The Plan will outline outreach to local and county officials and community and civic groups; a public scoping process to define the issues of concern among all parties interested in the Proposed Project; establishment of a Technical Advisory Committee and periodic meetings with that committee; a public hearing on release of the Draft EIS; and development and distribution of project newsletters. Cooperating and Participating agencies may include the United States Environmental Protection Agency, the Advisory Council on Historic Preservation, the United States Department of the Interior, the United States Fish and Wildlife Services, the New York Metropolitan Transportation Authority, the New York City Transit Authority, the New York City Department of Transportation, and the New York City Planning Commission, along with other agencies.

FTA invites comments on the PANYNJ's statement of purpose and need for the Proposed Project, as well as the alternatives proposed for consideration. Suggestions for modifications to the statement of purpose and need, and any other reasonable alternatives that meet the purpose and need for the project, are welcome and will be given serious consideration. Comments on significant environmental impacts that may be associated with the Proposed Project and alternatives are also welcome, as are the identification of information and analyses relevant to the Proposed Project. There will be additional opportunities to participate in the scoping process at the livestreamed, virtual public meetings announced in this Notice.

FTA Procedures. Public comments will be received through those methods explained earlier in this Notice and will be incorporated into a Final NEPA Scoping Information Packet. This document will detail the scope of the EIS and the potential environmental effects that will be considered during the NEPA process. After the completion of the Draft EIS, a public and agency review period, including a public hearing, will allow for input on the Draft EIS. These public comments, as well as any public comments received during the scoping process, along with responses to them, will be incorporated into the Draft EIS for the Proposed Project.

Anticipated Permits and Approvals. The NEPA Scoping Information Packet includes a preliminary list of anticipated permits and approvals from Federal, State, and local agencies. In addition to Federal agency consultations required by the Clean Air Act, the Endangered Species Act, and the National Historic Preservation Act, PANYNJ will coordinate with appropriate City of New York agencies or entities for compliance with local laws. The NEPA EIS will also assist the City of New York in making any applicable CEQR finding.

Aside from potential FTA funding and required consultations identified under the *FTA Procedures* section above, the following permits or approvals are currently anticipated:

- Section 106 of the National Historic Preservation Act Finding (Memorandum of Agreement or Programmatic Agreement) for historic properties and National Historic Landmarks;
- Approval of possible modifications to local streets/sidewalks by NYCDOT;
- Approval of construction coordination and maintenance and protection of traffic by NYCDOT;
- Approval of possible modifications to the City Map by the New York City Planning Commission; and
- CEQR finding by the City of New York.

Anticipated Schedule for Decision-Making Process. FTA and PANYNJ anticipate the following environmental review schedule, which is subject to change:

- Scoping (Public Scoping Meeting): June 23 and 24, 2021.
- Official Notice of Availability of the Draft EIS published in the **Federal Register**: Spring/Summer 2022.
- Public Hearings on Draft EIS: Spring/Summer 2022.
- **Federal Register** Notice of Availability of a Final EIS/Record of Decision (ROD): Spring/Summer 2023.

Combined Final EIS and ROD. In accordance with 23 U.S.C. 139, FTA may consider combining the Final EIS and ROD. If FTA combines the Final EIS and ROD, it is anticipated that those documents will serve as the basis for Federal, and possibly State and City, environmental findings and determinations needed to conclude the environmental review process, unless statutory criteria preclude issuance of a combined document (*i.e.,* the Final EIS makes substantial changes to the proposed action that are relevant to environmental or safety concerns or there is a significant new circumstance or information relevant to environmental concerns that affect the proposed action or its impacts).

Stephen Goodman,

Regional Administrator, Federal Transit Administration—Region II.

[FR Doc. 2021–11729 Filed 6–3–21; 8:45 am]

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Part II

Department of Commerce

National Oceanic and Atmospheric Administration

50 CFR Part 219

Takes of Marine Mammals Incidental to Specified Activities; Taking Marine Mammals Incidental to Northeast Fisheries Science Center Fisheries and Ecosystem Research; Proposed Rule

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 219

[Docket No. 210519–0110]

RIN 0648–BK39

Takes of Marine Mammals Incidental to Specified Activities; Taking Marine Mammals Incidental to Northeast Fisheries Science Center Fisheries and Ecosystem Research

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

ACTION: Proposed rule, request for comments.

SUMMARY: NMFS Office of Protected Resources (OPR) has received a request from the NMFS' Northeast Fisheries Science Center (NEFSC) for authorization to take marine mammals incidental to fisheries and ecosystem research conducted in the Atlantic Ocean, over the course of five years. This would be the second set of regulations and 5-year LOA issued to the NEFSC. The proposed regulations would be effective September 10, 2021 through September 9, 2026.

As required by the Marine Mammal Protection Act (MMPA), NMFS is proposing regulations to govern that take, and requests comments on the proposed regulations. NMFS will consider public comments prior to making any final decision on the issuance of the requested MMPA authorization and agency responses will be summarized in the final announcement of our decision.

DATES: Comments and information must be received no later than July 6, 2021.

ADDRESSES: You may submit comments on this document, identified by NOAA–NMFS–2021–0053, by the following method:

• *Electronic submission:* Submit all public comments via the Federal e-Rulemaking Portal. Go to *www.regulations.gov,* enter 0648–BK39 in the ''Search'' box, click the ''Comment Now!'' icon, complete the required fields, and enter or attach your comments.

Instructions: Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered by NMFS. All comments received are a part of the public record and will generally be posted for public viewing on *www.regulations.gov* without change. All personal identifying information (*e.g.,* name, address), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments (enter ''N/A'' in the required fields if you wish to remain anonymous).

FOR FURTHER INFORMATION CONTACT: Jaclyn Daly, Office of Protected Resources, NMFS, (301) 427–8401.

SUPPLEMENTARY INFORMATION:

Availability

A copy of NEFSC's application and any supporting documents, as well as a list of the references cited in this document, may be obtained online at: *www.fisheries.noaa.gov/national/marine-mammal-protection/incidental-take-authorizations-research-and-other-activities.* In case of problems accessing these documents, please call the contact listed above (see **FOR FURTHER INFORMATION CONTACT**).

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 to incidentally take marine mammals must 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.

Purpose and Need for This Regulatory Action

This proposed rule would establish 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 NEFSC's fisheries research activities in the Atlantic Ocean.

We received an application from the NEFSC requesting regulations and a 5-year LOA to take multiple species of marine mammals incidental to fisheries and ecosystem research in the Atlantic Ocean. Take by mortality or serious injury could occur incidental to the use of fisheries research gear. Take by Level B harassment could occur incidental to the use of active acoustic devices in the Atlantic coast region.

Legal Authority for the Regulatory 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 ''Proposed Mitigation'' 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 proposed rule containing 5-year regulations, and for any subsequent LOAs. As directed by this legal authority, this proposed rule contains mitigation, monitoring, and reporting requirements.

Summary of Major Provisions Within the Proposed Regulations

The following provides a summary the major provisions within this proposed rulemaking for the NEFSC fisheries research activities in the Northwest Atlantic Ocean. They include, but are not limited to:

• Training scientists and vessel crew in marine mammal detection and identification, rule compliance, and marine mammal handling.

• Monitoring of the sampling areas to detect the presence of marine mammals before gear deployment and while gear is in the water.

• Implementing standard tow durations to reduce the likelihood of incidental take of marine mammals.
• Implementing the mitigation strategy known as the ''move-on rule,'' which incorporates best professional judgment, when necessary during fisheries research.
• Removing gear from water if marine mammals are at-risk or interact with gear.
• Complying with applicable vessel speed restrictions and separation distances from marine mammals.
• Complying with applicable and relevant take reduction plans for marine mammals.

National Environmental Policy Act

To comply with the National Environmental Policy Act of 1969 (NEPA; 42 U.S.C. 4321 *et seq.*) and NOAA Administrative Order (NAO) 216–6A, NMFS must review our proposed action (*i.e.,* the issuance of an IHA) with respect to potential impacts on the human environment.

In July 2016, the NEFSC published a Final Programmatic Environmental Assessment (PEA) for Fisheries Research Conducted and Funded by the NEFSC (NMFS 2016a) to consider the direct, indirect and cumulative effects to the human environment resulting from NEFSC's activities as well as OPR's issuance of the regulations and subsequent incidental take authorization. NMFS made the PEA available to the public for review and comment, in relation specifically to its suitability for assessment of the impacts of our action under the MMPA. OPR signed a Finding of No Significant Impact (FONSI) on August 3, 2016. These documents are available at *https://www.fisheries.noaa.gov/action/incidental-take-authorization-noaa-fisheries-nefsc-fisheries-and-ecosystem-research.*

On September 18, 2020, NMFS announced the availability of a Draft Supplemental PEA for Fisheries Research Conducted and Funded by the Northeast Fisheries Science Center for review and comment (85 FR 58339). The purpose of the Draft SPEA is to evaluate potential direct, indirect, and cumulative effects of unforeseen changes in research that were not analyzed in the 2016 PEA, or new research activities along the U.S. East Coast. Where necessary, updates to certain information on species, stock status or other components of the affected environment that may result in different conclusions from the 2016 PEA are presented in this analysis. The supplemental PEA is available at *https://www.fisheries.noaa.gov/action/draft-supplemental-programmatic-environmental-assessment-nefsc-research-now-available.*

Information in the PEA, SPEA, NEFSC's application, and this notice collectively provide the environmental information related to proposed issuance of these regulations and subsequent incidental take authorization for public review and comment. We will review all comments submitted in response to this notice prior to concluding our NEPA process and making a final decision on NEFSC's request.

Summary of Request

On September 2, 2020, NMFS received an application from NEFSC requesting promulgation of regulations and issuance of a 5-year LOA to take marine mammals incidental to fisheries and ecosystem research in the Atlantic Ocean. NEFSC subsequently submitted revised applications on October 29, 2020; November 19, 2020; and December 3, 2020. The December application was deemed adequate and complete on December 9, 2020. In accordance with the MMPA, we published a notice of receipt (NOR) of the NEFSC's application in the **Federal Register**, requesting comments and information related to the NEFSC request for thirty days (85 FR 83901, December 23, 2020). We did not receive comments on the NOR.

The NEFSC's request is for take of a small number of 10 species of marine mammals by mortality or serious injury incidental to gear interaction and 32 species or stocks by Level B harassment incidental to use of active acoustic devices during fisheries and ecosystem research. NMFS previously issued a LOA to NEFSC for similar work (81 FR 64442, September 20, 2016); that LOA expires September 9, 2021. To date, NEFSC has complied with all the requirements (*e.g.,* mitigation, monitoring, and reporting) of the current LOA and did not exceed authorized take for a species. NEFSC annual monitoring reports can be found at *www.fisheries.noaa.gov/action/incidental-take-authorization-noaa-fisheries-nefsc-fisheries-and-ecosystem-research.*

Description of Proposed Activity

Overview

The NEFSC is the research arm of NMFS in the Greater Atlantic Region (Maine to Virginia). The NEFSC plans, develops, and manages a multidisciplinary program of basic and applied research to generate the information necessary for the conservation and management of the region's living marine resources, including the region's marine and anadromous fish and invertebrate populations to ensure they remain at sustainable and healthy levels. The NEFSC collects a wide array of information necessary to evaluate the status of exploited fishery resources and the marine environment from fishery independent (*i.e.,* non-commercial or recreational fishing) platforms. Surveys are conducted from NOAA-owned and operated vessels, NOAA chartered vessels, or research partner-owned or chartered vessels in the state and Federal waters of the Atlantic Ocean from Maine to Florida.

The NEFSC plans to administer, fund, or conduct 59 fisheries and ecosystem research survey programs over the 5-year period the proposed regulations would be effective (Table 1). Of the 59 surveys, only 42 involve gear and equipment with the potential to take marine mammals. Gear types include towed trawl nets fished at various levels in the water column, dredges, gillnets, traps, longline and other hook and line gear. Surveys using any type of seine net (*e.g.,* gillnets), trawl net, or hook and line (*e.g.,* longlines) have the potential for marine mammal interaction (*e.g.,* entanglement, hooking) resulting in M/SI harassment. In addition, the NEFSC conducts hydrographic, oceanographic, and meteorological sampling concurrent with many of these surveys which requires the use of active acoustic devices (*e.g.,* side-scan sonar, echosounders). These active sonars result in elevated sound levels in the water column, potentially causing behavioral disturbance rising to the level of harassment (Level B).

Dates and Duration

NEFSC would conduct research year-round; however, certain surveys would occur seasonally (Table 1). The proposed regulations and associated LOA would be valid September 10, 2021 through September 9, 2026.

Specified Geographical Region

The NEFSC would conduct fisheries research activities off of the U.S. Atlantic coast within the Northeast U.S. Continental Shelf Large Marine Ecosystem (NE LME), an area defined as the 200 miles off the shoreline and reaching from the U.S.-Canada border to Cape Hatteras (Figure 1). The NE LME is divided into four areas: The Gulf of Maine (GOM), Georges Bank (GB), Southern New England (SNE), and the Mid-Atlantic Bight (MAB). A small number of NEFSC surveys into the Southeast U.S. Continental Shelf LME

(SE LME) and, rarely, north into the Scotian Shelf LME.

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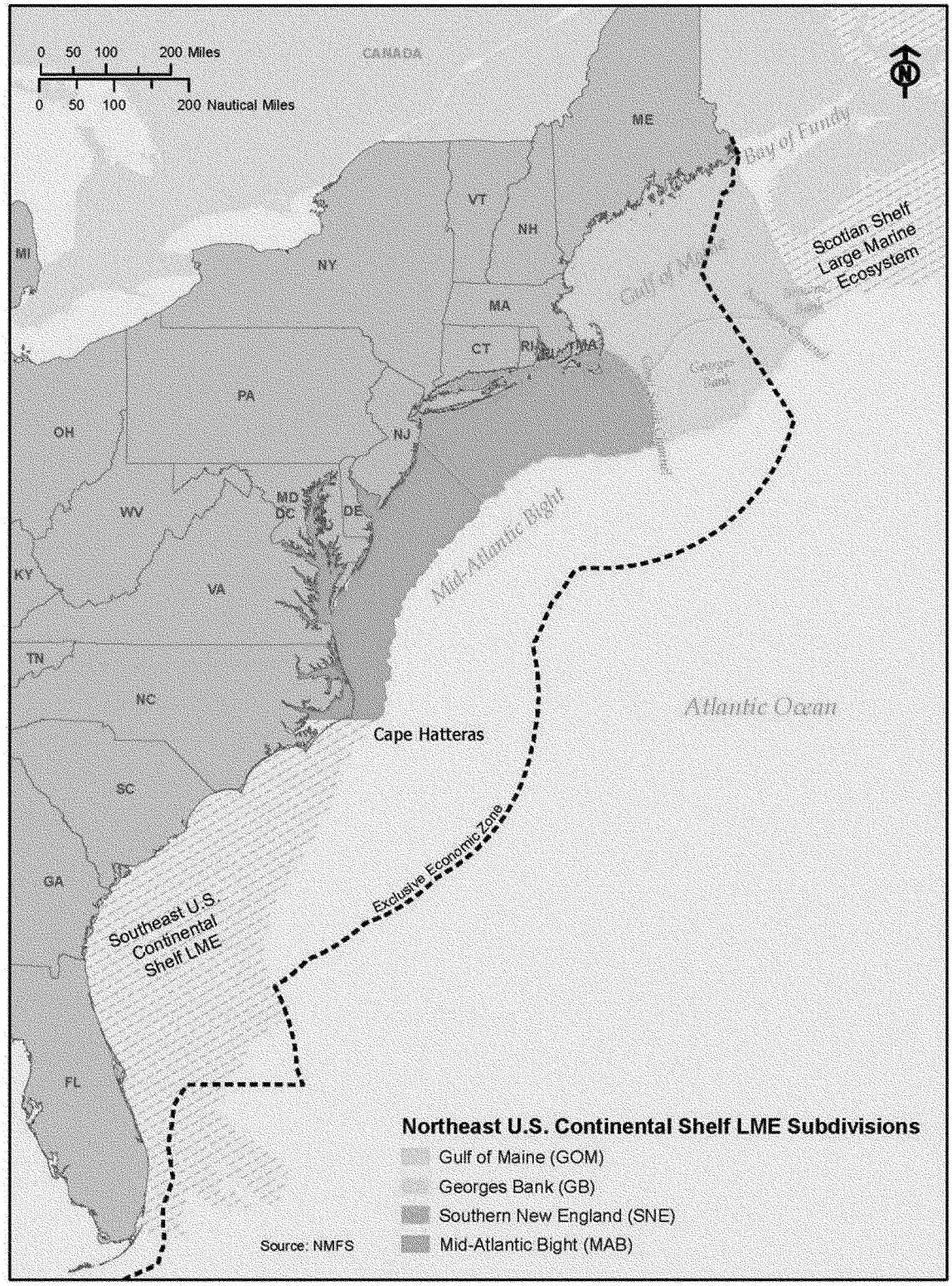
Figure 1. NEFSC Research Area



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The Atlantic coast region extends from the Gulf of Maine (to the U.S. and Canada border) past Cape Hatteras to Florida. The region is characterized by its temperate climate and proximity to the Gulf Stream, and is generally considered to be of moderately high productivity, although the portion of the region from Cape Cod to Cape Hatteras is one of the most productive areas in the world due to upwellings along the shelf break created by the western edge of the Gulf Stream. Sea surface temperatures (SST) exhibit a broad range across this region, with winter temperatures ranging from 2–20 °C in the north and 15–22 °C in the south, while summer temperatures, consistent in the south at approximately 28 °C, range from 15–27 °C in the northern portion.

The northern portion of this region (*i.e.,* north of Cape Hatteras) is more complex, with four major sub-areas: The Gulf of Maine, Georges Bank, southern New England, and the Mid-Atlantic Bight. Cold, low-salinity water transports in the Labrador Current from the Arctic Ocean into the Gulf of Maine and exits through the Great South Channel; upwellings occur around Georges Bank. South of Cape Cod, there is strong stratification along the coast where large estuaries occur (*e.g.,* Chesapeake Bay, Pamlico Sound).

The Gulf Stream is highly influential on both the northern and southern portions of the region, but in different ways. Meanders of the current directly affect the southern portion of the Gulf Stream, where it is closer to shore, while warm-core rings indirectly affect the northern portion (Belkin *et al.,* 2009). In addition, subarctic influences can reach as far south as the Mid-Atlantic Bight, but the convergence of the Gulf Stream with the coast near Cape Hatteras does not allow for significant northern influence into waters of the South Atlantic Bight.

Gulf of Maine—The Gulf of Maine (GOM) is an enclosed coastal sea characterized by relatively cold waters and deep basins. Several geographic features bound the GOM including Brown's Bank on the east, Maine and Nova Scotia to the north, Maine, New Hampshire, and Massachusetts on the west, and Cape Cod and Georges Bank to the south. Retreating glaciers (18,000–14,000 years ago) formed a complex system of deep basins, moraines, and rocky protrusions, leaving behind a variety of sediment types including silt, sand, clay, gravel, and boulders. There exists patchy distribution of sediments on the seafloor throughout the GOM, with occurrence largely related to the bottom topography.

Oceanic circulation in the GOM exhibits a general counterclockwise current, influenced primarily by cold water masses moving in from the Scotian Shelf and offshore. Although large-scale water patterns are generally counterclockwise around the GOM, many small gyres and minor currents do occur. Freshwater runoff from the many rivers along the coast into the GOM influences coastal circulation as well. These water movements feed into and affect the circulation patterns on Georges Bank and in Southern New England.

Georges Bank—Georges Bank (GB) is an elongated extension of the northeastern U.S. continental shelf, characterized by a steep slope on its northern edge and a broad, flat, and gently sloping southern flank. The Gulf of Maine lies to the north of GB, the Northeast Channel (between GB and Browns Bank) is to the east; the continental slope lies to the south, and the Great South Channel separates GB and Southern New England to the west. Although the top of GB is predominantly characterized by sandy sediment, glacial retreat during the late Pleistocene era resulted in deposits of gravel along the northern edge of GB, and some patches of silt and clay can be found on the sea floor. The most dominant oceanographic features of GB include a weak but persistent clockwise gyre that circulates over the whole bank, strong tidal flows (mainly northwest and southeast) and strong but intermittent storm-induced currents. The strong tidal currents result in vertically well-mixed waters over the bank. The southwestern flow of shelf and slope water that forms a countervailing current to the Gulf Stream drives the clockwise GB gyre.

Mid-Atlantic Bight—The Mid-Atlantic Bight (MAB) includes the continental shelf and slope waters from GB to Cape Hatteras, NC. The retreat of the last ice sheet shaped the morphology and sediments of the MAB. The continental shelf south of New England is broad and flat, dominated by fine grained sediments (sand and silt). Patches of gravel exist in places on the sea floor, such as on the western flank of the Great South Channel.

The shelf slopes gently away from the shore out to approximately 100 to 200 kilometers (km) (62 to 124 miles (mi)) offshore, where it transforms into the continental slope at the shelf break (at water depths of 100 to 200 m (328 to 656 ft). Along the shelf break, numerous deep-water canyons incise the slope and shelf. The sediments and topography of the canyons are much more heterogeneous than the predominantly sandy top of the shelf, with steep walls and outcroppings of bedrock and deposits of clay.

The southwestern flow of cold shelf water feeding out of the GOM and off GB dominates the circulatory patterns in this area. The countervailing Gulf Stream provides a source of warmer water along the coast as warm-core rings and meanders break off from the Gulf Stream and move shoreward, mixing with the colder shelf and slope water. As the shelf plain narrows to the south (the extent of the continental shelf is narrowest at Cape Hatteras), the warmer Gulf Stream waters run closer to shore.

Southern New England—The Southern New England (SNE) subarea extends from the Great South Channel in the east to the MAB in the west. The southwestern flow of cold shelf water feeding out of the GOM and off GB dominates the circulatory patterns in this area. The SNE continental shelf is a gently sloping region with smooth topography. The shelf is approximately 100 km (62 mi) wide, and the shelf break occurs at depths of between 100 to 200 m (328 to 656 ft). The continental slope extends from the shelf break to a depth of 2 km (6,562 ft). This zone has a relatively steep gradient, and the relief is moderately smooth. The continental rise (2 to 6 km; 500 to 19,700 ft) is similar to the slope in having only gradual changes in bathymetry. However, the overall gradient of the continental rise is less than that of the continental slope (Theroux and Wigley, 1998). Sediments of the SNE subarea consist of fine-grained sand and silt. Patches of gravel exist in places on the sea floor, such as on the western flank of the Great South Channel. Currents and historic disposal of dredged material may influence water and sediment quality within the SNE.

Southeast U.S. Continental Shelf Large Marine Ecosystem: This area covers the Atlantic Ocean extending approximately 930 miles from Cape Hatteras, NC south to the Straits of Florida (Yoder, 1991). The continental shelf in the region reaches up to approximately 120 miles offshore. The Gulf Stream Current influences the region with minor upwelling occurring along the Gulf Stream front. The area is approximately 115,000 square miles, includes several protected areas and coral reefs (Aquarone, 2008); numerous estuaries and bays, such as the Albemarle-Pamlico Sound, nearshore and barrier islands; and extensive coastal marshes that provide valuable ecosystem services and habitats for numerous marine and estuarine species. A six- to 12-mile wide coastal zone is characterized by high levels of primary

production throughout the year, while offshore, on the middle and outer shelf, upwelling along the Gulf Stream front and intrusions from the Gulf Stream cause seasonal phytoplankton blooms. Because of its high productivity, this sub-region supports active commercial and recreational fisheries (Shertzer *et al.* 2009).

Detailed Description of Specific Activity

The Federal Government has a trust responsibility to protect living marine resources in waters of the U.S., also referred to as Federal waters. These waters generally lie 3 to 200 nautical miles (nmi) from the shoreline. Those waters 3–12 nmi offshore comprise Federal territorial waters and those 12-to-200 nmi offshore comprise the Exclusive Economic Zone (EEZ), except where other nations have adjacent territorial claims. NOAA also conducts research to foster resource protection in state waters (*i.e.,* estuaries and oceanic waters within 3 nmi of shore). The U.S. government has also entered into a number of international agreements and treaties related to the management of living marine resources in international waters outside of the U.S. EEZ (*i.e.,* the high seas). To carry out its responsibilities over Federal and international waters, Congress has enacted several statutes authorizing certain Federal agencies to administer programs to manage and protect living marine resources. Among these Federal agencies, NOAA has the primary responsibility for protecting marine finfish and shellfish species and their habitats. Within NOAA, NMFS has been delegated primary responsibility for the science-based management, conservation, and protection of living marine resources under statutes including the Magnuson-Stevens Fishery Conservation and Management Act (MSA), the Atlantic Coastal Fisheries Cooperative Management Act (ACA), and the Atlantic Striped Bass Conservation Act.

Within NMFS, six Regional Fisheries Science Centers direct and coordinate the collection of scientific information needed to inform fisheries management decisions. Each Fisheries Science Center is a distinct entity and is the scientific focal point for a particular region. The NEFSC conducts research and provides scientific advice to manage fisheries and conserve protected species in the Atlantic coast region from Maine to northeast Florida. The NEFSC provides scientific information to support the Mid-Atlantic Fishery Management Council and other domestic fisheries management organizations. Specifically, NEFSC develops the scientific information required for fishery resource conservation, fishery development and utilization, habitat conservation, and protection of marine mammals and endangered marine species. Research is pursued to address specific needs in population dynamics, fishery biology and economics, engineering and gear development, and protected species biology. Specifically, research includes monitoring fish stock recruitment, abundance, survival and biological rates, geographic distribution of species and stocks, ecosystem process changes, and marine ecological research.

The NEFSC collects a wide array of information necessary to evaluate the status of exploited fishery resources and the marine environment. NEFSC scientists conduct fishery-independent research onboard NOAA-owned and operated vessels or on chartered vessels. For other types of surveys, cooperating scientists may conduct research onboard non-NOAA vessels. The NEFSC proposes to administer and conduct 59 survey programs over the 5-year period. Forty-two of the 59 total surveys/projects involve gear and equipment with the potential to take marine mammals (by mortality or serious injury (M/SI) or Level B harassment). We note the need for additional surveys could arise during the time period this proposed rule is effective, or some of the identified surveys could be eliminated or reduced in effort. Research activities associated with the requested LOA are not necessarily limited to the specific surveys shown in Table 1; however, any other surveys conducted by NEFSC would not be significantly different from the research analyzed herein or result in a change in the take request.

The gear types used by NEFSC to conduct fisheries research include: Pelagic trawl gear used at various levels in the water column, pelagic and demersal longlines, bottom-contact trawls, anchored sinking gillnets, and other gear such as dredges and traps. The use of pelagic and bottom trawl nets, gillnets, fyke nets, and longline/hook and line gear have to potential to result in interaction (*e.g.,* entanglement, hooking) with marine mammals. These gears and the methods of fishing are identical or similar to those described in the initial NEFSC proposed rule (80 FR 35942, July 9, 2015). Complete gear descriptions can also be found in Appendix B of the NMFS 2020 Draft Supplemental Programmatic Environmental Assessment available at *https://www.fisheries.noaa.gov/action/draft-supplemental-programmatic-environmental-assessment-nefsc-research-now-available.* Please refer to those documents for more information related to fishing gear.

Additionally, a small set of research activities along the Penobscot River estuary in Maine have the potential to behaviorally disturb marine mammals due to the physical presence of researchers near haulout areas.

Most of the vessel-based surveys use active acoustic devices. The NEFSC may conduct surveys aboard research vessels (R/V), including the NOAA Ship R/V *Henry B. Bigelow,* R/V *Gordon Gunter,* R/V *Pisces,* R/V *Nauvoo,* R/V *Harvey,* R/V *Chemist,* R/V *Resolute,* R/V *Hassler,* R/V *C.E. Stillwell,* and R/V *Gloria Michelle;* aboard R/V and fishing vessels (F/V) owned and operated by cooperating agencies and institutions including the F/V *Robert Michael,* F/V *Darana R,* R/V *Hugh R. Sharp,* and F/V *Eagle Eye II;* or aboard charter vessels.

A complete description of the long-term research surveys conducted by NEFSC can be found in section 1.4 of the LOA application. A complete description of the short-term cooperative research projects can be found in section 1.5 of the LOA application. Below we provide a summary table with information relevant to this proposed rule (Table 1).

TABLE 1—PROPOSED NEFSC FISHERIES RESEARCH SURVEYS

Project name	Survey description	Gear	Specific gear	Area of operation	Season	Annual days at sea (DAS)	Potential for take (Y/N)
Long-Term Research							
Benthic Habitat Survey.	Assess habitat distribution and condition, including disturbance by commercial fishing and changes as the benthic ecosystem recovers from chronic fishing impacts. Also serves to collect data on seasonal migration of benthic species, collect bottom data for mapping, and provide indications of climate change through species shifts.	Bottom Trawl	Conductivity, Temperature, and Depth (CTD), Van Veen, Plankton trap, Beam Trawl, Dredge, Camera, Sonar.	Georges Bank (GB)	Summer or Fall	20	Y
Fish Collection for Laboratory Experiments.	Trawling/hook and line collection operations undertake to capture high quality fish for laboratory experiments.	Bottom Trawl	Net and twine shrimp trawl, fishing poles.	New York Bight, Sandy Hook Bay.	April–November	10	Y
Habitat Mapping Survey.	Map shallow reef habitats of fisheries resource species, including warm season habitats of black sea bass, and locate sensitive habitats (e.g., shallow temperate coral habitats) for habitat conservation.	Bottom Trawl	4-seam, 3 bridle bottom trawl, beam trawl, CTD, Van Veen, Plankton trap, dredge, camera, sonar.	Ocean Shelf off MD	Summer	11	Y
Living Marine Resources Survey.	Determine the distribution, abundance, and recruitment patterns for multiple species.	Bottom Trawl	4-seam, 3 bridle bottom trawl, beam trawl, CTD, Van Veen, sonar.	Cape Hatteras to NJ	Spring	11	Y
Massachusetts Division of Marine Fisheries Bottom Trawl Surveys.	The objective of this project is to track mature animals and determine juvenile abundance.	Bottom Trawl	Otter trawl	Territorial waters from RI to NH borders.	Spring and Fall	60–72	Y
NEAMAP Near Shore Trawl Program—Northern Segment.	This project provides data collection and analysis in support of single and multi-species stock assessments Gulf of Maine. It includes the Maine/New Hampshire inshore trawl program, conducted by Maine Department of Marine Resources (MDMR) in the northern segment.	Bottom Trawl	Modified GoM shrimp otter trawl.	U.S.-Canada to NH–MA border from shore to 300 ft depth.	Spring and Fall	30–50	Y
NEAMAP Near Shore Trawl Program—Southern Segment.	This project provides data collection and analysis in support of single and multi-species stock assessments in the Mid-Atlantic. It includes the inshore trawl program NEAMAP Mid-Atlantic to Southern New England survey, conducted by Virginia Institute of Marine Science, College of William and Mary (VIMS) in the southern segment.	Bottom Trawl	4-seam, 3-bridle net bottom trawl cookie sweep.	Montauk, NY to Cape Hatteras, NC from 20 to 90 ft depth.	Spring and Fall	30–50	Y
NEFOP Observer Bottom Trawl Training Trips.	Certification training for new NEFOP Observers.	Bottom Trawl	Contracted vessels' trawl gear.	Mid-Atlantic Bight (MAB) and GB.	April–November (as needed), day trips.	18	Y
NEFSC Northern Shrimp Survey.	The objective of this project is to determine the distribution and abundance of northern shrimp and collect related data.	Bottom Trawl	4 seam modified commercial shrimp trawl, positional sensors, mini-log, CTD.	GOM	Summer	22	Y
NEFSC Standard Bottom Trawl Surveys (BTS).	This project monitors abundance and distribution of mature and juvenile fish and invertebrates.	Bottom Trawl	4-seam, 3-bridle bottom trawl.	Cape Hatteras to Western Scotian Shelf.	Spring and Fall	120	Y
NEFSC Bottom Trawl Survey Gear Trials.	Testing and efficiency evaluation of the standardized 4-seam, 3-bridle bottom trawl (doors, sweeps, protocols).	Bottom Trawl	4-seam, 3-bridle bottom trawl, twin trawls.	Cape Hatteras to Western Scotian Shelf.	Fall	14–20	Y

TABLE 1—PROPOSED NEFSC FISHERIES RESEARCH SURVEYS—Continued

Project name	Survey description	Gear	Specific gear	Area of operation	Season	Annual days at sea (DAS)	Potential for take (Y/N)
Atlantic Herring Survey.	This operation collects fisheries-independent herring spawning biomass data and also includes survey equipment calibration and performance tests.	Pelagic Trawl	4-seam, 3-bridle net bottom trawl, midwater rope trawl, acoustics.	GOM and Northern GB.	Fall	34	Y
Atlantic Salmon Trawl Survey.	This is a targeted research effort to evaluate the marine ecology of Atlantic salmon.	Pelagic Trawl	Modified mid-water trawl that fishes at the surface via pair trawling.	Inshore and offshore GOM.	Spring	21	Y
Deepwater Biodiversity.	This project collects fish, cephalopod and crustacean specimens from 500 to 2,000 m for tissue samples, specimen photos, and documentation of systematic characterization.	Pelagic Trawl	Deep-Sea acoustic/optic/oceanographic/eDNA system, trawl camera system.	Western North Atlantic.	Summer or Fall	16	Y
Penobscot Estuarine Fish Community and Ecosystem Survey.	The objective of this project is fish and invertebrate sampling for biometric and population analysis of estuarine and coastal species.	Pelagic Trawl	Mamou shrimp trawl modified to fish at surface.	Penobscot Estuary and Bay, ME.	Spring Summer and Fall.	12	Y
Northeast Integrated Pelagic Survey.	The objective of this project is to assess the pelagic components of the ecosystem including water currents, water properties, phytoplankton, microzooplankton, mesozooplankton, pelagic fish and invertebrates, sea turtles, marine mammals, and sea birds.	Pelagic Trawl	Mid-water trawls, bong nets, CTD, Acoustic Doppler Profiler (ADCP), acoustics.	Cape Hatteras to Western Scotian Shelf.	Summer and Fall	80	Y
NEFOP Observer Mid-Water Trawl Training Trip.	This program provides certification training for NEFOP Observers.	Pelagic Trawl	Various commercial nets.	MAB and GB	April–November as needed (day trips).	5	Y
Apex Predators Pelagic Longline Shark Survey.	The objectives of this survey are to: (1) Monitor the species composition, distribution, and abundance of pelagic sharks in the U.S. Atlantic from Maryland to Canada; (2) tag sharks for migration and age validation studies; (3) collect morphological data and biological samples for age and growth, feeding ecology, and reproductive studies; and (4) provide time-series of abundance from this survey for use in Atlantic pelagic shark assessments.	Longline	Yankee and current commercial pelagic longline gear. Configured according to NMFS HMS Regulations.	MD to Canada	Spring	30	Y
Apex Predators Bottom Longline Coastal Shark Survey.	The objectives of this survey are to: (1) Monitor the species composition, distribution, and abundance of sharks in coastal Atlantic waters from Florida to Delaware; (2) tag sharks for migration and age validation studies; (3) collect morphometric data and biological samples for age and growth, feeding ecology, and reproductive studies; and (4) provide time-series of abundance from this survey for use in Atlantic coastal shark assessments.	Longline	Florida style bottom longline.	RI to FL within 40 fathoms.	Spring	47	Y

Apex Predators Pelagic Nursery Grounds Study.	This project uses opportunistic sampling on board a commercial swordfish longline vessel to: (1) Monitor the species composition and distribution of juvenile pelagic sharks on the Grand Banks; (2) tag sharks for migration and age validation studies; and (3) collect morphometric data and biological samples for age and growth, feeding ecology, and reproductive studies. Data from this survey helps determine the location of pelagic shark nurseries for use in updating essential fish habitat designations.	Longline	Standard commercial pelagic longline gear. Configured according to NMFS Highly Migratory Species (HMS) Regulations.	GB to Grand Banks off Newfoundland, Canada.	Fall	21–55	Y
Cooperative Atlantic States Shark Pupping and Nursery (COASTSPAN) Longline and Gillnet Surveys.	This project determines the location of shark nurseries, species composition, relative abundance, distribution, and migration patterns. It is used to identify and refine essential fish habitat and provides standardized indices of abundance by species used in multiple species specific stock assessments. NEFSC conducts surveys in Delaware, New Jersey, and Rhode Island estuarine and coastal waters. Other areas are surveyed by cooperating institutions and agencies. In the NE Large Marine Ecosystem (LME), the Virginia Institute of Marine Science (VIMS) is a cooperating partner. South of Cape Hatteras the South Carolina Department of Natural Resources (SCDNR), University of North Florida (UNF), and Florida Atlantic University (FAU) are partners.	Longline and Gillnet	Bottom Longline Gear, Anchored Sinking Gillnet.	FL to RI	Summer	25 or 40	Y
Cooperative Research Gulf of Maine Longline Project.	The objective of this project is to conduct commercial cooperative bottom longline sets to characterize demersal species of the Western Gulf of Maine traditionally difficult to capture with traditional or research trawl gear due to the bottom topography.	COOP Western-Central Gulf of Maine hard bottom longline survey.	Longline	Western GOM focused on sea mounts.	Spring and Fall	60 stations/year eastern Maine, 90 stations/year western-central GOM.	Y
NEFOP Observer Bottom Longline Training Trips.	This program provides certification training for NEFOP observers.	Longline	Commercial bottom longline gear.	MAB and GB	April–November as needed (day trips).	5	Y
Annual Assessments of Sea Scallop Abundance and Distribution.	These Atlantic Sea Scallop Research Set-Aside (RSA) rotational area surveys endeavor to monitor scallop biomass and derive estimates of Total Allowable Catch (TAC) for annual scallop catch specifications. Additionally, the surveys monitor recruitment, growth, and other biological parameters such as meat weight, shell height and gonadal somatic indices.	Dredge	Scallop dredges, drop cameras, Other Habitat Camera (HabCam) Versions.	GPM, Georges Bank, Mid-Atlantic.	Dredge surveys Apr–Sept, Camera surveys June–Sept.	50–100	N
NEFOP Observer Scallop Dredge Training Trips.	This program provides certification training for NEFOP observers.	Dredge	Turtle deflector dredge.	MAB and GB	April–November as needed (day trips).	6	N
Annual Standardized Sea Scallop Survey.	The objective of this project is to determine distribution and abundance of sea scallops and collect related data for Ecosystem Management from concurrent stereo-optic images. It is conducted by the NEFSC.	Dredge	New Bedford dredge, HabCam V4.	NC to GB	Summer	36	N
Surfclam and Ocean Quahog Dredge Survey.	The objective of this project is to determine distribution and abundance of Surfclam/ocean quahog and collect related data.	Dredge	Hydraulic-jet dredge	Southern VA to GB	Summer	15	N

TABLE 1—PROPOSED NEFSC FISHERIES RESEARCH SURVEYS—Continued

Project name	Survey description	Gear	Specific gear	Area of operation	Season	Annual days at sea (DAS)	Potential for take (Y/N)
Coastal Maine Telemetry Network.	The objective of this project is to monitor tagged animals entering the Penobscot Bay System and exiting the system into the Gulf of Maine.	Other	Fixed position acoustic telemetry array receivers on moorings spaced 250–400 m apart.	Penobscot River estuary and bay, GOM.	Year round in GOM and Apr.–Nov. in nearshore areas.	10	Y
Deep-sea Coral Survey.	The objective of this program is to determine the species diversity, community composition, distribution and extent of deep sea coral and sponge habitats.	Other	Remotely Operated Vehicles (ROVs), CTD, towed cameras, ADCP, acoustics.	Continental shelf margin, slope, and submarine canyons and deep basins: GOM to Virginia.	Summer	16	Y
Diving Operations	The objective of this project is to collect growth data on hard clams, oysters and bay scallops.	Other	Wire mesh cages, lantern nets.	Long Island Sound	Year round	20	N
Gulf of Maine Ocean Observing System Mooring Cruise.	This project services oceanographic moorings operated by the University of Maine.	Other	ADCP on vessel and moorings.	GOM and Northern GB.	Summer	12	N
Hydroacoustics Surveys.	This project consists of mobile transects conducted throughout the estuary and bay to study fish biomass and distribution.	Acoustic only	Split-beam and DIDSON.	Penobscot Bay and estuary.	Spring	25	Y
Marine Estuaries Diadromous Survey.	This project is a fish community survey at fixed locations.	Other	1 m and 2 m fyke nets.	Penobscot Bay and estuary.	April–November	100	N
NEFOP Observer Gillnet Training Trips.	This program provides certification training for NEFOP Observers.	Other	gill net gear	MAB and GB	April–November as needed (day trips).	10	N
Nutrients and Frontal Boundaries.	The objective of this project is to characterize nutrient patterns associated with distinct water masses and their boundaries off of coastal New Jersey and Long Island in association with biological sampling.	Other	ADP, CTD, Hydroacoustics.	MAB	Feb., May–June, Aug, and Nov.	10	N
Ocean Acidification	The objective of this project is to develop baseline pH measurements in the Hudson River water.	Other	CTD, YSI, multi-nutrient analyzer, Kemmerer bottle.	Hudson River Coastal waters.	Spring	10	N
AUV Pilot Studies	This program provides gear and platform testing.	Other	AUV	MA state waters, GB	June	5	N
Rotary Screw Trap (RSTs) Survey.	This project is designed to collect abundance estimates of Migrating Atlantic salmon smolts and other anadromous species.	Other	RST	Estuaries on coastal Maine rivers.	April 15–June 15	60	N
Trawling to Support Finfish Aquaculture Research.	The objective of this project is to collect broodstock for laboratory spawning and rearing and experimental studies.	Other	Combination bottom trawl, shrimp trawl, gillnet.	Long Island Sound	Summer	30	Y
DelMarVa Habitat Characterization.	The objective of this project is to characterize and determine key hard bottom habitats in coastal ocean off the DelMarVa Peninsula as an adjunct to the DelMarVa Reef Survey.	Other	ADCP, CTD, YSI, Plankton net, video sled, Ponar grab, Kemmerer bottle, sonar.	Coastal waters off DE, MD and VA.	August	5	N
DelMarVa Reefs Survey.	The objective of this project is determination of extent and distribution of rock outcrops and coral habitats and their use by black sea bass and other reef fishes.	Other	HABCAM, CTD	Coastal waters off DE, MD and VA.	August	5	N

Miscellaneous Fish Collections and Experimental Survey Gear Trials.	The James J. Howard Sandy Hook Marine Laboratory occasionally supports short-term research projects requiring small samples of fish for various purposes or to test alterations of survey gear. These small and sometimes opportunistic sampling efforts have used a variety of gear types other than those listed under Status Quo projects. The gears and effort levels listed here are representative of potential requests for future research support.	Other	Bottom trawl, lobster and fish pots, beam trawl, seine net, trammel nets.	New York Bight estuary waters.	Spring and Fall	not stated	Y
Opportunistic Hydrographic Sampling.	This program consists of opportunistic plankton and hydrographic sampling during ship transit.	Other	Plankton net, expendable bathythermograph.	Southeast LME depths <300 m.	Early Summer	not stated	N
Monkfish RSA	Monkfish Research Set-Aside (RSA) surveys endeavor to monitor Monkfish biomass and derive estimates of Total Allowable Catch (TAC) for annual Monkfish catch specifications. Additionally, the surveys monitor recruitment, growth, and other biological parameters.	Other	Commercial gillnets of various sizes, short durations for sets.	Mid-Atlantic and Georges Bank.	April–December (end of fishing year).	100–200 sets/year. Sets left for 2–3 days.	Y
Short-Term Cooperative Projects							
Survey Projects	Cooperative Industry based surveys to enhance data for flatfish utilizing cookie sweep gear on commercial platforms.	Trawl	Bottom Trawl	GOM, GB, SNE, MAB.	Summer and Fall	550 tows/year	Y
Survey Projects	Cooperative Industry based catchability studies for Monkfish, Longfin squid, other.	Trawl	Pelagic Trawl	GOM, GB, SNE, MAB.	Summer and Fall Summer and Fall.	30 tows/year	Y
Trawl Comparison Research.	Twin trawl and paired vessel comparisons of Standardized Bigelow Trawl to test rockhopper and cookie sweeps and varying trawl doors performance on commercial platforms.	Twin Bottom Trawl	Trawl nets with two types of sweeps or doors.	GB, SNE, MAB	Summer and Fall	100 DAS	Y
Survey Projects	Pot and trap catchability studies for Scup and Black Sea bass.	Pot survey	Pots and Traps	SNE, Rhode Island Bight, Nantucket Sound, MAB waters from shore to shelf edge.	Spring and fall for black sea bass. Year round for scup.	2,650 pot sets/year	Y
Conservation Engineering Projects.	Gear and net conservation Cooperative work.	Trawl	Bottom Trawl	GOM, GB, SNE, MAB.	Spring, Summer and Fall.	~500 tows per year total for all bottom trawl conservation projects.	Y
Conservation Engineering Projects.	Varied gear and efficiency testing of fisheries applications.	Trawl	Bottom Trawl	GOM, GB, SNE, MAB.	Spring, Summer and Fall.		Y
Conservation Engineering Projects.	Cooperative Squid Trawls and studies for squid catchability and selectivity.	Trawl	Bottom Trawl & Beam trawl.	GOM, GB, SNE, MAB.	Spring, Summer and Fall.		Y
Conservation Engineering Projects.	Commercial scallop dredge finfish and turtle excluder research. Scallop dredge finfish and turtle excluder research.	Dredge	Dredge	GB, SNE, MAB	April–December (end of fishing year).	> 1,700 dredge tows/year for all dredge conservation projects.	N
Conservation Engineering Projects.	Commercial hydrodynamic turtle deflector dredge testing.	Dredge	Hydrodynamic dredge.	GB, SNE, MAB	April–December (end of fishing year).		N
Tagging Projects	Winter Flounder tagging projects. Winter flounder migration patterns.	Trawl	Bottom Trawl & Otter trawl.	Coastal waters in GOM New Hampshire to Stonington/Mt. Desert Island, ME.	Spring and Summer	up to 650 trawls/year	Y
Tagging Projects	Spiny dogfish tagging projects. Spiny dogfish tagging north and south of Cape Cod, and Cusk & NE multi-species tagging.	Hook & Line; Gillnet	Hook & Line and Gillnet.	GOM and GB waters adjacent to Cape Cod, MA.	Spring, Summer and Fall.	Long line: 5 sets/trip, 15 total. Gillnet: 5 sets/trip, 15 total.	Y

TABLE 1—PROPOSED NEFSC FISHERIES RESEARCH SURVEYS—Continued

Project name	Survey description	Gear	Specific gear	Area of operation	Season	Annual days at sea (DAS)	Potential for take (Y/N)
Tagging Projects	Monkfish tagging projects	Gillnet	Gillnet	GOM, SNE, MAB	September–December.	18–20 DAS, 10 short-duration sets/day, 180–200 sets total.	Y
Ropeless Lobster Trap Research.	Research to develop ropeless gear/devices to mitigate/eliminate interactions with protected species (whales and turtles) by utilizing commercial lobster gear.	Lobster Pots/Traps	Acoustic/mechanical releases for ropeless lobster gear and float lines.	GOM, SNE, MAB (Inshore and Offshore).	Summer and Fall	50–100 DAS, 500 sets, singles and up to 40 pots per set.	N
Rod and Reel Tagging of Atlantic Salmon.	Use of rod and reel to capture, tag, release Atlantic salmon in international and US waters.	Rod and Reel	Acoustic tags	ME, Greenland	Summer and Fall	200–500 tags applied total.	N
Continuous Plankton Recorder (CPR) Transect Surveys: GOM.	A towed continuous plankton recording device is deployed from vessels of opportunity in the Gulf of Maine, monthly.	Towed array	CPR	ME to Nova Scotia	Summer and Fall	24 DAS	N

Description of NEFSC's Active Acoustic Devices

NEFSC's fisheries surveys may use a wide range of active acoustic devices for remotely sensing bathymetric, oceanographic, and biological features of the environment. Most of these sources involve relatively high frequency, directional, and brief repeated signals tuned to provide sufficient focus and resolution on specific objects. The NEFSC may also use passive listening sensors (*i.e.,* remotely and passively detecting sound rather than producing it), which do not have the potential to impact marine mammals. NEFSC active acoustic sources include various echosounders (*e.g.,* multibeam systems), scientific sonar systems, positional sonars (*e.g.,* net sounders for determining trawl position), and environmental sensors (*e.g.,* acoustic Doppler current profilers). The sources are characterized as non-impulsive, intermittent sources.

Mid- and high-frequency underwater acoustic sources typically used for scientific purposes operate by creating an oscillatory overpressure through rapid vibration of a surface, using either electromagnetic forces or the piezoelectric effect of some materials. A vibratory source based on the piezoelectric effect is commonly referred to as a transducer. Transducers are usually designed to excite an acoustic wave of a specific frequency, often in a highly directive beam, with the directional capability increasing with operating frequency. The main parameter characterizing directivity is the beam width, defined as the angle subtended by diametrically opposite ''half power'' (-3 dB) points of the main lobe. For different transducers at a single operating frequency the beam width can vary from 180° (almost omnidirectional) to only a few degrees. Transducers are usually produced with either circular or rectangular active surfaces. For circular transducers, the beam width in the horizontal plane (assuming a downward pointing main beam) is equal in all directions, whereas rectangular transducers produce more complex beam patterns with variable beam width in the horizontal plane.

The types of active sources employed in fisheries acoustic research and monitoring may be considered in two broad categories here, based largely on their respective operating frequency (*e.g.,* within or outside the known audible range of marine species) and other output characteristics (*e.g.,* signal duration, directivity). As described below, these operating characteristics result in differing potential for acoustic impacts on marine mammals.

The types of active sources employed in fisheries acoustic research and monitoring, based largely on their relatively high operating frequencies and other output characteristics (*e.g.,* signal duration, directivity), should be considered to have very low potential to cause effects to marine mammals that would rise to the level of a ''take,'' as defined by the MMPA. Acoustic sources operating at high output frequencies (≤180 kHz) that are outside the known functional hearing capability of any marine mammal are unlikely to be detected by marine mammals. Although it is possible that these systems may produce subharmonics at lower frequencies, this component of acoustic output would also be at significantly lower SPLs. While the production of subharmonics can occur during actual operations, the phenomenon may be the result of issues with the system or its installation on a vessel rather than an issue that is inherent to the output of the system. Many of these sources also generally have short duration signals and highly directional beam patterns, meaning that any individual marine mammal would be unlikely to even receive a signal that would likely be inaudible.

Acoustic sources present on most NEFSC fishery research vessels include a variety of single, dual, and multi-beam echosounders (many with a variety of modes), sources used to determine the orientation of trawl nets, and several current profilers with lower output frequencies that certain marine mammals may detect (*e.g.,* 10–180 kHz). However, while likely potentially audible to certain species, these sources also have generally short ping durations and are typically focused (highly directional) to serve their intended purpose of mapping specific objects, depths, or environmental features. These characteristics reduce the likelihood of an animal receiving or perceiving the signal. A number of these sources, particularly those with relatively lower output frequencies coupled with higher output levels can be operated in different output modes (*e.g.,* energy can be distributed among multiple output beams) that may lessen the likelihood of perception by and potential impact on marine mammals.

The acoustic system used during a particular NEFSC survey is optimized for surveying under specific environmental conditions (*e.g.,* depth and bottom type). Lower frequencies of sound travel further in the water (*i.e.,* good range) but provide lower resolution (*i.e.,* are less precise). Pulse width and power may also be adjusted in the field to accommodate a variety of environmental conditions. Signals with a relatively long pulse width travel further and are received more clearly by the transducer (*i.e.,* good signal-to-noise ratio) but have a lower range resolution. Shorter pulses provide higher range resolution and can detect smaller and more closely spaced objects in the water. Similarly, higher power settings may decrease the utility of collected data. Power level is also adjusted according to bottom type, as some bottom types have a stronger return and require less power to produce data of sufficient quality. Power is typically set to the lowest level possible in order to receive a clear return with the best data. Survey vessels may be equipped with multiple acoustic systems; each system has different advantages that may be utilized depending on the specific survey area or purpose. In addition, many systems may be operated at one of two frequencies or at a range of frequencies. We summarize characteristics of these sources below and in Table 2.

1. *Multi-Frequency Narrow Beam Scientific Echosounders*—Echosounders and sonars work by transmitting acoustic pulses into the water that travel through the water column, reflect off the seafloor, and return to the receiver. Water depth is measured by multiplying the time elapsed by the speed of sound in water (assuming accurate sound speed measurement for the entire signal path), while the returning signal itself carries information allowing ''visualization'' of the seafloor. Multi-frequency split-beam sensors are deployed from NEFSC survey vessels to acoustically map the distributions and estimate the abundances and biomasses of many types of fish; characterize their biotic and abiotic environments; investigate ecological linkages; and gather information about their schooling behavior, migration patterns, and avoidance reactions to the survey vessel. The use of multiple frequencies allows coverage of a broad range of marine acoustic survey activity, ranging from studies of small plankton to large fish schools in a variety of environments from shallow coastal waters to deep ocean basins. Simultaneous use of several discrete echosounder frequencies facilitates accurate estimates of the size of individual fish, and can also be used for species identification based on differences in frequency-dependent acoustic backscattering between species. The NEFSC operates Simrad EK500 and EK60 systems, which

transmits and receives at six frequencies ranging from 18 to 333 kHz.

2. *Multibeam Echosounder and Sonar*—Multibeam echosounders and sonars operate similarly to the devices described above. However, the use of multiple acoustic ''beams'' allows coverage of a greater area compared to single beam sonar. The sensor arrays for multibeam echosounders and sonars are usually mounted on the keel of the vessel and have the ability to look horizontally in the water column as well as straight down. Multibeam echosounders and sonars are used for mapping seafloor bathymetry, estimating fish biomass, characterizing fish schools, and studying fish behavior. The NEFSC operates the Simrad ME70 system, which is mounted to the hull of the research vessels and emits frequencies in the 70–120 kHz range.

3. *Single-Frequency Omnidirectional Sonar*—Low-frequency, high-resolution, long range fishery sonars operate with user selectable frequencies between 20–30 kHz, which provide longer range and prevent interference from other vessels. These sources provide omnidirectional imaging around the source with three different vertical beamwidths available (single or dual vertical view and 4–5° variable for tilt angles from 0 to 45° from horizontal). At the 30-kHz operating frequency, the vertical beamwidth is less than 7° and can be electronically tilted from +10 to −80°, which results in differential transmitting beam patterns. The cylindrical multi-element transducer allows the omnidirectional sonar beam to be electronically tilted down to –60°, allowing automatic tracking of schools of fish within the entire water volume around the vessel. The NEFSC operates the Simrad SX90 system.

4. *Acoustic Doppler Current Profiler (ADCP)*—An ADCP is a type of sonar used for measuring water current velocities simultaneously at a range of depths. Whereas current depth profile measurements in the past required the use of long strings of current meters, the ADCP enables measurements of current velocities across an entire water column. The ADCP measures water currents with sound, using the Doppler effect. A sound wave has a higher frequency when it moves towards the sensor (blue shift) than when it moves away (red shift). The ADCP works by transmitting ''pings'' of sound at a constant frequency into the water. As the sound waves travel, they ricochet off particles suspended in the moving water, and reflect back to the instrument. Due to the Doppler effect, sound waves bounced back from a particle moving away from the profiler have a slightly lowered frequency when they return. Particles moving toward the instrument send back higher frequency waves. The difference in frequency between the waves the profiler sends out and the waves it receives is called the Doppler shift. The instrument uses this shift to calculate how fast the particle and the water around it are moving. Sound waves that hit particles far from the profiler take longer to come back than waves that strike close by. By measuring the time it takes for the waves to return to the sensor, and the Doppler shift, the profiler can measure current speed at many different depths with each series of pings.

An ADCP anchored to the seafloor can measure current speed not just at the bottom, but at equal intervals to the surface. An ADCP instrument may be anchored to the seafloor or can be mounted to a mooring or to the bottom of a boat. ADCPs that are moored need an anchor to keep them on the bottom, batteries, and a data logger. Vessel-mounted instruments need a vessel with power, a shipboard computer to receive the data, and a GPS navigation system so the ship's movements can be subtracted from the current velocity data. ADCPs operate at frequencies between 75 and 300 kHz.

5. *Net Monitoring Systems*—During trawling operations, a range of sensors may be used to assist with controlling and monitoring gear. Net sounders give information about the concentration of fish around the opening to the trawl, as well as the clearances around the opening and the bottom of the trawl; catch sensors give information about the rate at which the codend is filling; symmetry sensors give information about the optimal geometry of the trawls; and tension sensors give information about how much tension is in the warps and sweeps. The NEFSC uses the NetMind System which measures door spread and monitors the door height off of the bottom and operates at 30 and 200 kHz. The NEFSC also uses a Simrad ITI Catch Monitoring System, which allows monitoring of the exact position of the gear and of what is happening in and around the trawl.

TABLE 2—OPERATING CHARACTERISTICS OF NEFSC ACTIVE ACOUSTIC SOURCES

Active acoustic system	Operating frequencies	Maximum source level	Single ping duration (ms) and repetition rate (Hz)	Orientation/directionality	Nominal beamwidth (degrees)
Simrad EK500 and EK60 narrow beam echosounders.	18, *38, 70, 120, 200,* 333 kHz; primary frequencies italicized.	224 dB	Variable; most common settings are 1 ms and 0.5 Hz.	Downward looking	7° at 38 kHz, 11° at 18 kHz.
Simrad ME70 multibeam echosounder.	70–120 kHz	205 dB	0.06–5 ms; 1–4 Hz	Primarily downward looking	140°.
Simrad SX90 narrow beam sonar.	20–30 kHz	219 dB	Variable	Omnidirectional	4–5° (variable for tilt angles from 0–45° from horizontal).
Teledyne RD Instruments ADCP, Ocean Surveyor.	75 kHz	224 dB	0.2 Hz	Downward looking	30°.
Simrad ITI Catch Monitoring System.	27–33 kHz	214 dB	0.05–0.5 Hz	Downward looking	40°.
Raymarine SS260 transducer for DSM300 (surrogate for FCV–292).	50, 200 kHz	217 dB	Unknown	Downward looking	19° at 50 kHz, 6° at 200 kHz.
Simrad EQ50	50, 200 kHz	210 dB	Variable	Downward looking	16° at 50 kHz, 7° at 200 kHz.
NetMind	30, 200 kHz	190 dB	Unknown	Downward looking	50°.

Proposed mitigation, monitoring, and reporting measures are described in detail later in this document (please see Proposed Mitigation and Proposed Monitoring and Reporting).

Description of Marine Mammals in the Area of Specified Activities

Sections 3 and 4 of NEFSC's LOA application summarize available

information regarding status and trends, distribution and habitat preferences, and behavior and life history, of the potentially affected species. Species and stock information is also provided in NMFS' 2015 proposed rule associated with the current LOA (80 FR 39542; July 9, 2015), NMFS's 2016 Final Programmatic EA (available *at https://www.fisheries.noaa.gov/action/incidental-take-authorization-noaa-fisheries-nefsc-fisheries-and-ecosystem-research*) and, where updates are necessary, NMFS 2019 draft supplemental programmatic EA (available at *https://www.fisheries.noaa.gov/action/incidental-take-authorization-noaa-northeast-fisheries-science-center-fisheries-and*). Additional information regarding population trends and threats may be found in NMFS's Stock Assessment Reports (SARs; *https://www.fisheries.noaa.gov/national/marine-mammal-protection/marine-mammal-stock-assessments*) and more general information about these species (*e.g.,* physical and behavioral descriptions) may be found on NMFS's website (*https://www.fisheries.noaa.gov/find-species*).

Table 3 lists all species or stocks for which take is expected and proposed to be authorized for this action, and summarizes information related to the population or stock, including regulatory status under the MMPA and Endangered Species Act (ESA) and potential biological removal (PBR), where known. For taxonomy, we follow Committee on Taxonomy (2020). PBR is defined by the MMPA as the maximum number of animals, not including natural mortalities, that may be removed from a marine mammal stock while allowing that stock to reach or maintain its optimum sustainable population (as described in NMFS's SARs). 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 3 are the most recent available at the time of publication and are available in the draft 2020 SARs (available online at: *https://www.fisheries.noaa.gov/national/marine-mammal-protection/draft-marine-mammal-stock-assessment-reports*).

TABLE 3—MARINE MAMMAL PRESENT WITHIN THE NORTHEAST U.S. CONTINENTAL SHELF LARGE MARINE ECOSYSTEM

Common name	Scientific name	Stock	ESA/MMPA status; strategic (Y/N) [1]	Stock abundance (CV, N_{min}, most recent abundance survey) [2]	PBR [3]	Total annual M/SI [3]
Order Cetartiodactyla—Cetacea—Superfamily Mysticeti (baleen whales)						
Family Balaenidae (right whales):						
North Atlantic right whale	*Eubalaena glacialis*	Western Atlantic	E/D; Y	368 (0, 356, 2020) [4]	0.8	[5] 18.6
Family Balaenopteridae (rorquals):						
Blue whale [5]	*Balaenoptera musculus*	Western North Atlantic	E/D; Y	Unk (n/a, 402, 1980–2008)	0.8	0
Minke whale	*Balaenoptera acutorostrata acutorostrata.*	Canadian East Coast	–; N	21,968 (0.31, 17,002, 2016)	170	[7 8] 10.6
Sei whale	*B. borealis borealis*	Nova Scotia	E/D; Y	6,292 (1.02, 3,098, 2016)	6.2	[9] 1.2
Fin whale	*B. physalus physalus*	Western North Atlantic	E/D; Y	6,802 (0.24, 5,573, 2016)	11	[10] 2.35
Humpback whale	*Megaptera novaeangliae novaeangliae.*	Gulf of Maine	E/D; Y	1,393 (0.15, 1,375, 2016)	22	[11] 58
Superfamily Odontoceti (toothed whales, dolphins, and porpoises)						
Family Physeteridae:						
Sperm whale	*Physeter macrocephalus*	Western North Atlantic	E/D; Y	4,349 (0.28, 3,451, 2016)	3.9	0
Family Kogiidae:						
Pygmy sperm whale	*Kogia breviceps*	Western North Atlantic	–; N	7,750 (0.38, 5,689, 2016)	46	0
Dwarf sperm whale	*K. sima*	Western North Atlantic	–; N	7,750 (0.38, 5,689, 2016)	46	0
Family Ziphiidae (beaked whales):						
Northern bottlenose whale	*Hyperoodon ampullatus*	Western North Atlantic	–; N	Unk	Unk	0
Blainville's beaked whale	*Mesplodon densirostris*	Western North Atlantic	–; N	10,107 (0.27, 8,085, 2016) [12]	81	0.2
Sowerby's beaked whale	*M. bidens*	Western North Atlantic	–; N	10,107 (0.27, 8,085, 2016) [12]	81	0
Gervais' beaked whale	*M. europaeus.*					
True's beaked whale	*M. mirus.*					
Cuvier's beaked whale	*Ziphius cavirostris*	Western North Atlantic	–; N	5,744 (0.36, 4,282, 2016)	43	0.2
Family Delphinidae:						
Short-beaked common dolphin.	*Delphinus delphis delphis*	Western North Atlantic	–; N	172,825 (0.55, 112,531, 2007)	1,125	[8] 289
Pygmy killer whale	*Feresa attenuata*	Western North Atlantic	–; N	Unk	Unk	Unk
Short-finned pilot whale	*Globicephala macrorhynchus.*	Western North Atlantic	–; N	28,924 (0.24, 23,637, 2016)	236	160
Long-finned pilot whale	*G. melas*	Western North Atlantic	–; N	39,215 (0.30, 30,627, 2016)	306	21
Risso's dolphin	*Grampus griseus*	Western North Atlantic	–; N	35,493 (0.19, 30,289, 2016)	303	54.3
Fraser's dolphin	*Lagenodelphis hosei*	Western North Atlantic	–; N	Unk	Unk	0
Atlantic white-sided dolphin	*Lagenorhynchus acutus*	Western North Atlantic	–; N	93,233 (0.71, 54,443, 2016)	544	26
White-beaked dolphin	*L. albirostris*	Western North Atlantic	–; N	536,016 (0.31, 415,344, 2016)	4,153	0
Killer whale	*Orcinus orca*	Western North Atlantic	–; N	Unk	Unk	0
Melon-headed whale	*Peponocephala electra*	Western North Atlantic	–; N	Unk	Unk	0
Pantropical spotted dolphin	*Stenella attenuata*	Western North Atlantic	–; N	6,593 (0.52, 4,367, 2016)	44	0
Clymene dolphin	*S. clymene*	Western North Atlantic	–; N	4,237 (1.03, 2,071, 2016	21	0
Striped dolphin	*S. coeruleoalba*	Western North Atlantic	–; N	67,036 (0.29, 52,939, 2016)	529	0
Atlantic spotted dolphin	*S. frontalis*	Western North Atlantic	–; N	39,921 (0.27, 32,032, 2016)	320	0

TABLE 3—MARINE MAMMAL PRESENT WITHIN THE NORTHEAST U.S. CONTINENTAL SHELF LARGE MARINE ECOSYSTEM—Continued

Common name	Scientific name	Stock	ESA/MMPA status; strategic (Y/N) [1]	Stock abundance (CV, N_{min}, most recent abundance survey) [2]	PBR [3]	Total annual M/SI [3]
Spinner dolphin	*S. longirostris*	Western North Atlantic	–; N	4,102 (0.99, 2,045, 2016)	20	0
Rough-toothed dolphin	*Steno bredanensis*	Western North Atlantic	–; N	136 (1.0, 67, 2016)	0.7	0
Bottlenose dolphin	*Tursiops truncatus truncatus.*	Western North Atlantic (WNA) Offshore.	–; N	62,851 (0.23, 51,914, 2016)	519	28
		WNA Northern Migratory Coastal.	–/D; Y	6,639 (0.41, 4,759, 2016)	48	[13] 1.2–21.5
Family Phocoenidae (porpoises):						
Harbor porpoise	*Phocoena phocoena phocoena.*	Gulf of Maine/Bay of Fundy Stock.	–; N	95,543 (0.31, 74,034, 2016)	851	[8] 217
Order Carnivora—Superfamily Pinnipedia						
Family Phocidae (earless seals):						
Gray seal	*Halichoerus grypus grypus*	Western North Atlantic	–; N	27,131 (0.19, 23,158, 2016)	1,389	[8] 4,729
Harbor seal	*Phoca vitulina vitulina*	Western North Atlantic	–; N	75,834 (0.15, 66,884, 2012)	2,006	[8] 350

[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. NMFS automatically designates any species or stock listed under the ESA as depleted and as a strategic stock under the MMPA.

[2] NMFS marine mammal stock assessment reports at: *www.nmfs.noaa.gov/pr/sars/.* CV is coefficient of variation; N_{min} is the minimum estimate of stock abundance. In some cases, abundance and PBR is unknown (Unk) and the CV is not applicable.

[3] These values, found in NMFS' SARs, represent PBR and annual levels of human-caused mortality plus serious injury from all sources combined (*e.g.,* commercial fisheries, subsistence hunting, and ship strike). In some cases PBR is unknown (Unk) because the minimum population size cannot be determined. Annual M/SI often cannot be determined precisely and is in some cases presented as a minimum value or as unknown (Unk).

[4] Abundance estimate taken from Pace et al., 2021.

[5] Total M/SI of 18.6 for this species is model-derived and not broken down by cause. The fishery contribution of 6.85 is observed interactions only.

[6] Given the small proportion of the distribution range that has been sampled and considering the low number of blue whales encountered and photographed, the current data, based on photo-identification, do not allow for an estimate of abundance of this species in the Northwest Atlantic with a minimum degree of certainty (Sears *et al.* 1987; Hammond et al. 1990; Sears *et al.* 1990; Sears and Calambokidis 2002; Fisheries and Oceans Canada 2009).

[7] The total estimated human-caused mortality and serious injury to the Canadian East Coast minke whale stock is estimated as 10.6 per year (9.15 attributable to fisheries).

[8] The NEFSC has historically taken this species in NEFSC research surveys (2004–2015) (see Tables 6–8).

[9] The total estimated human-caused mortality and serious injury to the Nova Scotia sei whale stock is estimated as 1.2 per year (0.4 attributable to fisheries).

[10] The total estimated human-caused mortality and serious injury to the Western North Atlantic fin whale stock is estimated as 2.35 per year (1.55 attributable to fisheiries).

[11] Total M/SI of 58 for this species is model-derived and not broken down by cause. The fishery contribution of 9.5 is observed interactions obly.

[12] The total number of this species of beaked whale off the eastern U.S. and Canadian Atlantic coast is unknown, and seasonal abundance estimates are not available for this stock. However, several estimates of the undifferentiated complex of beaked whales (*Ziphius* and *Mesoplodon spp.*) from selected regions are available for select time periods (Barlow *et al.* 2006) as well as two estimates of *Mesoplodon spp.* beaked whales alone (Waring *et al.,* 2015).

[13] The Northern migratory stock of common bottlenose dolphins may interact with unobserved fisheries. Therefore, a range of human-caused mortality and serious injury for this stock is presented.

As indicated above, all 35 number species (comprising 37 managed stocks) in Table 3 temporally and spatially co-occur with the surveys provided in Table 1 to the degree that take is reasonably likely to occur, and we have proposed authorizing it. While beluga (*Delphinapterus leucas*), Bryde's (*Balaenoptera edeni*), false killer (*Pseudorca crassidens*) whales, harp seals (*Pagophilus groenlandica*) and hooded seals (*Cystophora cristata*) have been documented in the area, these occurrence records are rare and are considered beyond the normal range of the species.

In addition, the manatee (*Trichechus manatus latirostris*) may be found in the MAB and SE LME. However, manatee are managed by the U.S. Fish and Wildlife Service and are not considered further in this document.

A full description of the biology, ecology, and threats to marine mammals listed in Table 3 can be found in NMFS proposed rule for the initial LOA (80 FR 39542; July 9, 2015), NEFSC's application, and NMFS' Programmatic Environmental Assessment (NMFS, 2016). Please refer to those documents for those descriptions. Table 3 updates information regarding abundance and human interaction and below we update on take reduction planning, unusual mortality events, and biologically important areas.

Take reduction planning—Take reduction plans help recover and prevent the depletion of strategic marine mammal stocks that interact with certain U.S. commercial fisheries, as required by Section 118 of the MMPA. The immediate goal of a take reduction plan is to reduce, within six months of its implementation, the M/SI of marine mammals incidental to commercial fishing to less than the PBR level. The long-term goal is to reduce, within five years of its implementation, the M/SI of marine mammals incidental to commercial fishing to insignificant levels, approaching a zero serious injury and mortality rate, taking into account the economics of the fishery, the availability of existing technology, and existing state or regional fishery management plans. NMFS convenes Take Reduction Teams to develop these plans.

For marine mammals in specified geographic region of NEFSC research programs, there are currently four take reduction plans in effect (the Atlantic Large Whale Take Reduction Plan, the Bottlenose Dolphin Take Reduction Plan, the Harbor Porpoise Take Reduction Plan, and the Pelagic Longline Take Reduction Plan). As discussed earlier in the ''Proposed Mitigation'' section, the NEFSC and NEFSC cooperative research projects comply with applicable TRP mitigation measures and gear requirements specified for their respective fisheries and areas.

The Atlantic Large Whale Take Reduction Plan (ALWTRP)—The goal of this plan is to reduce mortality/serious injury (M/SI) of North Atlantic right, humpback, fin, and minke whales in several northeast fisheries that use lobster trap/pots and gillnets. Gear modification requirements and restrictions vary by location, date, and

gear type but may include the use of weak links, and gear marking and configuration specifications. Detailed requirements may be found in the regional guides to gillnet and pot/trap gear fisheries available at: *http://www.greateratlantic.fisheries.noaa.gov/Protected/whaletrp/.*

Of the species/stocks of concern in the ALWTRP, the NEFSC has requested the authorization of incidental M/SI harassment for the minke whale only (see ''Estimated Take by Incidental Harassment'' later in this document).

The Bottlenose Dolphin Take Reduction Plan—The goal of this plan is to reduce M/SI of coastal bottlenose dolphins incidental to the North Carolina inshore gillnet, Southeast Atlantic gillnet, Southeastern U.S. shark gillnet, U.S. Mid-Atlantic coastal gillnet, Atlantic blue crab trap/pot, Mid-Atlantic haul/beach seine, North Carolina long haul seine, North Carolina roe mullet stop net, and Virginia pound net fisheries (71 FR 24776, April 26, 2006). The following general requirements were implemented: Spatial/temporal gillnet restrictions, gear proximity (fishermen must stay within a set distance of gear), gear modifications, non-regulatory conservation measures, and a revision to the large mesh gillnet size restriction. Detailed requirements may be found at: *http://www.nmfs.noaa.gov/pr/interactions/trt/bdtrp.htm.*

Of the species/stocks of concern in the take reduction plan, the NEFSC has requested the authorization of incidental M/SI for two stocks of bottlenose dolphins, one of which belongs to a coastal stock covered in the take reduction plan (see ''Estimated Take by Incidental Harassment'' later in this document).

The Harbor Porpoise Take Reduction Plan—The goal of this plan is to reduce interactions between harbor porpoises and commercial gillnet gear fisheries in the New England and the Mid-Atlantic areas. Management includes seasonal time and area closures that correspond with peak seasonal abundances of harbor porpoises and gear modification requirements such as the use of pingers, floatline length, twine size, tie downs, net size, net number, and numbers of nets per string. Detailed requirements may be found at: *http://www.greateratlantic.fisheries.noaa.gov/protected/porptrp/.*

The NEFSC has requested the authorization of incidental M/SI harassment for harbor porpoises (see ''Estimated Take by Incidental Harassment'' later in this document).

The Pelagic Longline Take Reduction Plan—The plan addresses M/SI of long-finned and short-finned pilot whales as well as Risso's, common, and Atlantic white-sided dolphins in commercial pelagic longline fishing gear in the Atlantic. Regulatory measures include limiting mainline length to 20 nautical miles or less within the Mid-Atlantic Bight and posting an informational placard on careful handling and release of marine mammals in the wheelhouse and on working decks of the vessel. Detailed requirements are on the internet at: *http://www.greateratlantic.fisheries.noaa.gov/Protected/mmp/atgtrp/.*

Of the species/stocks of concern in the take reduction plan, the NEFSC has requested the authorization of incidental M/SI harassment for Risso's, common, Atlantic spotted dolphin, and Atlantic white-sided dolphins (see ''Estimated Take by Incidental Harassment'' later in this document).

Unusual Mortality Events (UME)—The MMPA defines a UME as ''a stranding that is unexpected; involves a significant die-off of any marine mammal population; and demands immediate response.'' From 1991 to the present, there have been 22 formally recognized UMEs in the Atlantic coast region involving species under NMFS' jurisdiction. Four of those 22 UME are currently open and involve the following species: North Atlantic right whales (NARWs), humpback whales, minke whales, and harbor and gray seals.

NARW UME—Beginning in 2017, elevated mortalities in NARWs have been documented, primarily in Canada but some in the U.S. and were collectively declared an Unusual Mortality Event (UME). In 2017, there were a total of 17 confirmed dead stranded whales (12 in Canada; 5 in the United States) and in 2018, three confirmed dead stranded whales in the United States. In 2019, nine dead whales stranded in Canada, and one dead whale stranded in the United States. In 2020, two mortalities were documented. To date in 2021, two mortalities has been documented. The current total confirmed mortalities for the UME are 34 dead stranded whales (21 in Canada; 13 in the United States), and the leading category for the cause of death for this UME is ''human interaction,'' specifically from entanglements or vessel strikes. Additionally, since 2017, 15 live free-swimming non-stranded whales have been documented with serious injuries from entanglements or vessel strikes. More information on this UME can be found at *https://www.fisheries.noaa.gov/national/marine-life-distress/2017-2021-north-atlantic-right-whale-unusual-mortality-event.*

Atlantic Humpback Whale UME—Since January 2016, elevated humpback whale mortalities have occurred along the Atlantic coast from Maine through Florida. In total, 147 whales have stranded along the eastern seaboard. The majority of strandings have occurred from the Outer Banks, NC to Massachusetts. Partial or full necropsy examinations were conducted on approximately half of the whales. Of the whales examined, about 50 percent had evidence of human interaction, either ship strike or entanglement. More information on this UME can be found at *https://www.fisheries.noaa.gov/national/marine-life-distress/2016-2021-humpback-whale-unusual-mortality-event-along-atlantic-coast.*

Atlantic Minke Whale UME—Since January 2017, elevated minke whale mortalities have occurred along the Atlantic coast from Maine through South Carolina. In total 105 whales have stranded, the majority along the New England coast. More information on this UME can be found at *https://www.fisheries.noaa.gov/national/marine-life-distress/2017-2021-minke-whale-unusual-mortality-event-along-atlantic-coast.*

Northeast Pinniped UME—Since July 2018, elevated numbers of harbor seal and gray seal mortalities have occurred across Maine, New Hampshire and Massachusetts. Additionally, seals showing clinical signs have stranded as far south as Virginia, although not in elevated numbers, therefore the UME investigation now encompasses all seal strandings from Maine to Virginia. In total, 3,152 seals have stranded along the mid-Atlantic and New England coast. Full or partial necropsy examinations have been conducted on some of the seals and samples have been collected for testing. Based on tests conducted so far, the main pathogen found in the seals is phocine distemper virus. More information about this UME can be found at *https://www.fisheries.noaa.gov/new-england-mid-atlantic/marine-life-distress/2018-2020-pinniped-unusual-mortality-event-along.*

Of these species involved in active UMEs, the NEFSC has requested, and we propose to authorize, the incidental take, by mortality or serious injury, of minke whales, and harbor and gray seals. The NEFSC has also requested, and we are proposing to authorize, take by Level B harassment for each of these species incidental to the use of active acoustic equipment during fisheries and ecosystem research. See ''Estimated Take'' later in this document for more

information regarding the proposed take.

Biologically Important Areas

In 2015, NOAA's Cetacean Density and Distribution Mapping Working Group identified Biologically Important Areas (BIAs) for 24 cetacean species, stocks, or populations in seven regions (US East Coast, Gulf of Mexico, West Coast, Hawaiian Islands, Gulf of Alaska, Aleutian Islands and Bering Sea, and Arctic) within U.S. waters through an expert elicitation process. BIAs are reproductive areas, feeding areas, migratory corridors, and areas in which small and resident populations are concentrated. BIAs are region-, species-, and time-specific. A description of the types of BIAs found within NEFSC fishery research areas follows:

Reproductive Areas: Areas and months within which a particular species or population selectively mates, gives birth, or is found with neonates or other sensitive age classes.

Feeding Areas: Areas and months within which a particular species or population selectively feeds. These may either be found consistently in space and time, or may be associated with ephemeral features that are less predictable but can be delineated and are generally located within a larger identifiable area.

Migratory Corridors: Areas and months within which a substantial portion of a species or population is known to migrate; the corridor is typically delimited on one or both sides by land or ice.

Small and Resident Population: Areas and months within which small and resident populations occupying a limited geographic extent exist.

The delineation of BIAs does not have direct or immediate regulatory consequences. Rather, the BIA assessment is intended to provide the best available science to help inform analyses and planning for applicants, and to support regulatory and management decisions under existing authorities, and to support the reduction of anthropogenic impacts on cetaceans and to achieve conservation and protection goals. In addition, the BIAs and associated information may be used to identify information gaps and prioritize future research and modeling efforts to better understand cetaceans, their habitat, and ecosystems. Table 4 provides a list of BIAs found within NEFSC fisheries research areas.

TABLE 4—BIOLOGICALLY IMPORTANT AREAS WITHIN NEFSC RESEARCH AREAS

BIA name	Species	BIA type	Time of year	Size (km^2)
Southwestern Gulf of Maine and George's Bank.	Minke whale	Feeding	March–Nov	54,341
Eastern Atlantic	NARW	Migration	North: March–April; South: Nov–Dec	269,448
East of Montauk Point	Fin whale	Feeding	March–Oct	2,933
Great South Channel and George's Bank Shelf.	NARW	Feeding	April–June	12,247
Cape Cod Bay and MA Bay	NARW	Feeding	Feb–April	3,149
Southern Gulf of Maine	Fin whale	Feeding	Year-round	18,015
Jeffreys Ledge	NARW	Feeding	June–July; Oct–Dec	702
Gulf of Maine/Stellwagon Bank/Great South Channel.	Humpback whale	Feeding	March–Dec	47,701
Gulf of Maine	NARW	Reproduction	Nov–Jan	8,214
Central Gulf of Main—Parker Ridge and Cashes Ledge.	Minke whale	Feeding	March–Nov	2,256
Gulf of Maine	Harbor porpoise	Small and resident	July–Sept	12,211
Gulf of Maine	Sei whale	Feeding	May–Nov	56,609
Northern Gulf of Maine	Fin whale	Feeding	June–Oct	6,146

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. Generalized hearing ranges were chosen based on the approximately 65 dB threshold from the normalized composite audiograms, with the exception for lower limits for low-frequency cetaceans where the lower bound was deemed to be biologically implausible and the lower bound from Southall *et al.* (2007) retained. Marine mammal hearing groups and their associated hearing ranges are provided in Table 5.

TABLE 5—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.

TABLE 5—MARINE MAMMAL HEARING GROUPS—Continued

[NMFS, 2018]

Hearing group	Generalized hearing range *
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. Thirty-eight marine mammal species (33 cetacean and 2 pinniped (2 phocid) species) have the reasonable potential to co-occur with the proposed survey activities. Please refer to Table 3. Of the cetacean species that may be present, 6 are classified as low-frequency cetaceans (*i.e.,* all mysticete species), 25 are classified as mid-frequency cetaceans (*i.e.,* all delphinid and ziphiid species and the sperm whale), and 3 are classified as high-frequency cetaceans (*i.e.,* harbor porpoise and *Kogia spp.*).

Potential Effects of Specified Activities on Marine Mammals and Their Habitat

This section includes a summary and discussion of the ways that components of the specified activity may impact marine mammals and their habitat. The Estimated Take section later in this document includes a quantitative analysis of the number of individuals that are expected to be taken by this activity. The Negligible Impact Analysis and Determination section considers the content of this section, the Estimated Take section, and the Proposed Mitigation section, to draw conclusions regarding the likely impacts of these activities on the reproductive success or survivorship of individuals and how those impacts on individuals are likely to impact marine mammal species or stocks.

We note that the potential effects from NEFSC fisheries and ecosystem research (*i.e.,* gear interaction and acoustic impacts) remain the same as those described in the **Federal Register** notices associated with the issuance of the NEFSC's current LOA. Effects to marine mammals are also described in NMFS' 2020 Draft Supplemental EA. We reiterate that information here and, where appropriate, we updated the information to reflect data contained within the NEFSC's annual monitoring reports received pursuant to the 2016–2021 LOA.

Ship Strike

Vessel collisions with marine mammals, or ship strikes, can result in death or serious injury of the animal. Wounds resulting from ship strike may include massive trauma, hemorrhaging, broken bones, or propeller lacerations (Knowlton and Kraus, 2001). An animal at the surface may be struck directly by a vessel, a surfacing animal may hit the bottom of a vessel, or an animal just below the surface may be cut by a vessel's propeller. More superficial strikes may not kill or result in the death of the animal. These interactions are typically associated with large whales (*e.g.,* fin whales), which are occasionally found draped across the bulbous bow of large commercial ships upon arrival in port. Although smaller cetaceans or pinnipeds are more maneuverable in relation to large vessels than are large whales, they may also be susceptible to strike. The severity of injuries typically depends on the size and speed of the vessel, with the probability of death or serious injury increasing as vessel speed increases (Knowlton and Kraus, 2001; Laist *et al.,* 2001; Vanderlaan and Taggart, 2007; Conn and Silber, 2013). Impact forces increase with speed, as does the probability of a strike at a given distance (Silber *et al.,* 2010; Gende *et al.,* 2011).

Pace and Silber (2005) found that the probability of death or serious injury increased rapidly with increasing vessel speed. Specifically, the predicted probability of serious injury or death increased from 45 to 75 percent as vessel speed increased from 10 to 14 nautical mile per hour (kts), and exceeded ninety percent at 17 kts. Higher speeds during collisions result in greater force of impact, but higher speeds also appear to increase the chance of severe injuries or death through increased likelihood of collision by pulling whales toward the vessel (Clyne, 1999; Knowlton *et al.,* 1995). In a separate study, Vanderlaan and Taggart (2007) analyzed the probability of lethal mortality of large whales at a given speed, showing that the greatest rate of change in the probability of a lethal injury to a large whale as a function of vessel speed occurs between 8.6 and 15 kt. The chances of a lethal injury decline from approximately eighty percent at 15 kts to approximately twenty percent at 8.6 kts. At speeds below 11.8 kts, the chances of lethal injury drop below fifty percent, while the probability asymptotically increases toward one hundred percent above 15 kt.

In an effort to reduce the number and severity of strikes of the endangered NARW, NMFS implemented speed restrictions in 2008 (73 FR 60173; October 10, 2008). These restrictions require that vessels greater than or equal to 65 ft (19.8 m) in length travel at less than or equal to 10 kn near key port entrances and in certain areas of right whale aggregation along the U.S. eastern seaboard. Conn and Silber (2013) estimated that these restrictions reduced total ship strike mortality risk levels by eighty to ninety percent.

For vessels used in NEFSC research activities, transit speeds average 10 kt (but vary from 6–14 kt), while vessel speed during active sampling is typically only 2 to 4 kt. At sampling speeds, both the possibility of striking a marine mammal and the possibility of a strike resulting in serious injury or mortality are discountable. At average transit speed, the probability of serious injury or mortality resulting from a strike, if one occurred, is less than fifty percent. However, the likelihood of a strike actually happening is again discountable. Ship strikes, as analyzed in the studies cited above, generally involve commercial shipping, which is much more common in both space and time than is research activity. Jensen and Silber (2004) summarized ship strikes of large whales worldwide from 1975–2003 and found that most collisions occurred in the open ocean and involved large vessels (*e.g.,* commercial shipping). Commercial fishing vessels were responsible for three percent of recorded collisions,

while only one such incident (0.75 percent) was reported for a research vessel during that time period.

It is possible for ship strikes to occur while traveling at slow speeds. For example, a NOAA-chartered survey vessel traveling at low speed (5.5 kt) while conducting multi-beam mapping surveys off the central California coast struck and killed a blue whale in 2009. The State of California determined that the whale had suddenly and unexpectedly surfaced beneath the hull, with the result that the propeller severed the whale's vertebrae, and that this was an unavoidable event. This strike represents the only such incident in approximately 540,000 hours of similar coastal mapping activity ($p = 1.9 \times 10^{-6}$; 95% CI = 0–5.5×10^{-6}; NMFS, 2013). In addition, a non-NEFSC research vessel reported a fatal strike in 2011 of a dolphin in the Atlantic, demonstrating that it is possible for strikes involving smaller cetaceans or pinnipeds to occur. In that case, the incident report indicated that an animal apparently was struck by the vessel's propeller as it was intentionally swimming near the vessel. While indicative of the type of unusual events that cannot be ruled out, neither of these instances represents a circumstance that would be considered reasonably foreseeable or that would be considered preventable.

In summary, we anticipate that vessel collisions involving NEFSC research vessels, while not impossible, represent unlikely, unpredictable events. NEFSC has not documented any ship strikes or near-misses in their monitoring reports pursuant to the current LOA. In addition, there are several preventive measures to minimize the risk of vessel collisions with right whales and other species of marine mammals. The compliance guide for the right whale ship strike reduction rule states that all vessels 19.8 m in overall length or greater must slow to speeds of 10 kts or less in seasonal management areas. Northeast U.S. Seasonal Management Areas include: Cape Cod Bay (1 Jan–15 May), off Race Point (1 Mar–30 Apr) and GSC (1 Apr–31 July). Mid-Atlantic Seasonal Management Areas include several port or bay entrances from 1 November to 30 April. When operating in these Seasonal Management Areas, Dynamic Management Areas, or in the vicinity of right whales or surface active groups of large baleen whales the vessel's speed will not exceed 10 kts. The purpose of this mandatory regulation is to reduce the likelihood of deaths and serious injuries to these endangered whales that result from collisions with a vessel (78 FR 73726, December 9, 2013). Further, because vessels of all sizes can strike a whale, NEFSC research vessels will also reduce speed and change course in the vicinity of resting groups of large whales. When transiting between sampling stations, research vessels can travel at speeds of up to 14 knots. However, when NEFSC vessels are operating in right whale Seasonal Management Areas, Dynamic Management Areas, or at times and locations when whales are otherwise known to be present, they operate at speeds no greater than 10 knots.

NEFSC research vessel captains and crew watch for marine mammals while underway during daylight hours and take necessary actions to avoid them. NEFSC surveys using large NOAA vessels (*e.g.,* R/V *Henry B. Bigelow*) include one bridge crew dedicated to watching for obstacles at all times, including marine mammals. At any time during a survey or in transit, any bridge personnel that sights protected species that may intersect with the vessel course immediately communicates their presence to the helm for appropriate course alteration or speed reduction as possible to avoid incidental collisions, particularly with large whales (*e.g.,* NARWs).

Finally, the Right Whale Sighting Advisory System (RWSAS) is a NMFS program designed to reduce collisions between ships and the critically endangered NARW by alerting mariners to the presence of the right whales. All NOAA research vessels operating in NARW habitat participate in the RWSAS.

No ship strikes have been reported from any fisheries research activities conducted or funded by the NEFSC in the Atlantic coast region. Given the relatively slow speeds of research vessels, the presence of bridge crew watching for obstacles at all times (including marine mammals), the presence of marine mammal observers on some surveys, and the small number of research cruises, we believe that the possibility of ship strike is discountable and, further, that were a strike of a large whale to occur, it would be unlikely to result in serious injury or mortality. No incidental take resulting from ship strike is anticipated, and this potential effect of research will not be discussed further in the following analysis.

Fishing Gear Interactions

Marine mammals are known to regularly remove catch or bait (*i.e.,* depredate) from commercial fisheries' lines or nets, and some species (primarily pinnipeds) take fish from mariculture pens. Depredation has been documented in over 30 species of marine mammals and from various types of gear (*e.g.,* Read 2008; Reeves et al., 2013; Werner et al., 2015). For example, some individuals in populations of sperm, killer, false killer, and pilot whales around the world have become adept at removing a variety of fish species from longline hooks, a behavior also exhibited by other toothed whales and dolphins in a wide range of fisheries. Other species have learned to take catch from trawl or gill nets (*e.g.,* Kovaks et al., 2017).

Marine mammals are widely regarded as being quite intelligent and inquisitive, and when their pursuit of prey coincides with human pursuit of the same resources, it should be expected that physical interaction with fishing gear may occur (*e.g.,* Beverton, 1985). Fishermen and marine mammals are both drawn to areas of high prey density, and certain fishing activities may further attract marine mammals by providing food (*e.g.,* bait, captured fish, bycatch discards) or by otherwise making it easier for animals to feed on a concentrated food source. Provision of foraging opportunities near the surface may present an advantage by negating the need for energetically expensive deep foraging dives (Hamer and Goldsworthy, 2006). Trawling, for example, can make available previously unexploited food resources by gathering prey that may otherwise be too fast or deep for normal predation, or may concentrate calories in an otherwise patchy landscape (Fertl and Leatherwood, 1997). Pilot whales, which are generally considered to be teuthophagous (*i.e.,* feeding primarily on squid), were commonly observed in association with Atlantic mackerel (*Scomber scombrus*) trawl fisheries from 1977–88 in the northeast U.S. EEZ (Waring *et al.,* 1990). Not surprisingly, stomach contents of captured whales were observed to have high proportions of mackerel (68 percent of non-trace food items), indicating that the ready availability of a novel, concentrated, high-calorie prey item resulted in changed dietary composition (Read, 1994).

These interactions can result in injury or death for the animal(s) involved and/or damage to fishing gear. Coastal animals, including various pinnipeds, bottlenose dolphins, and harbor porpoises, are perhaps the most vulnerable to these interactions. They are most likely to interact with set or passive fishing gear such as gillnets, traps (Beverton, 1985; Barlow *et al.,* 1994; Read *et al.,* 2006; Byrd *et al.,* 2014; Lewison et al., 2014). Although interactions are less common for use of trawl nets and longlines, they do occur

with sufficient frequency to necessitate the establishment of required mitigation measures for multiple U.S. fisheries using both types of gear (NMFS, 2014). It is likely that no species of marine mammal can be definitively excluded from the potential for interaction with fishing gear (*e.g.,* Northridge, 1984); however, the extent of interactions is likely dependent on the biology, ecology, and behavior of the species involved and the type, location, and nature of the fishery.

Trawl Nets

As described previously, trawl nets are towed nets (*i.e.,* active fishing) consisting of a cone-shaped net with a codend or bag for collecting the fish and can be designed to fish at the bottom, surface, or any other depth in the water column. Here we refer to bottom trawls and midwater trawls (*i.e.,* any net not designed to tend the bottom while fishing). Trawl nets in general have the potential to capture or entangle marine mammals, which have been known to be caught in bottom trawls, presumably when feeding on fish caught therein, and in midwater trawls, which may or may not be coincident with their feeding (Northridge, 1984).

Capture or entanglement may occur whenever marine mammals are swimming near the gear, intentionally (*e.g.,* foraging) or unintentionally (*e.g.,* migrating), and any animal captured in a net is at significant risk of drowning unless quickly freed. Animals can also be captured or entangled in netting or tow lines (also called lazy lines) other than the main body of the net; animals may become entangled around the head, body, flukes, pectoral fins, or dorsal fin. Interaction that does not result in the immediate death of the animal by drowning can cause injury (*i.e.,* Level A harassment) or serious injury. Constricting lines wrapped around the animal can immobilize the animal or injure it by cutting into or through blubber, muscles and bone (*i.e.,* penetrating injuries) or constricting blood flow to or severing appendages. Immobilization of the animal, if it does not result in immediate drowning, can cause internal injuries from prolonged stress and/or severe struggling and/or impede the animal's ability to feed (resulting in starvation or reduced fitness) (Andersen *et al.,* 2008).

Marine mammal interactions with trawl nets, through capture or entanglement, are well-documented. Dolphins are known to attend operating nets to either benefit from disturbance of the bottom or to prey on discards or fish within the net. For example, Leatherwood (1975) reported that the most frequently observed feeding pattern for bottlenose dolphins in the Gulf of Mexico involved herds following working shrimp trawlers, apparently feeding on organisms stirred up from the benthos. Bearzi and di Sciara (1997) opportunistically investigated working trawlers in the Adriatic Sea from 1990–94 and found that ten percent were accompanied by foraging bottlenose dolphins. However, midwater trawls have greater potential to capture cetaceans, because the nets may be towed at faster speeds, these trawls are more likely to target species that are important prey for marine mammals (*e.g.,* squid, mackerel), and the likelihood of working in deeper waters means that a more diverse assemblage of species could potentially be present (Hall *et al.,* 2000).

Globally, at least seventeen cetacean species are known to feed in association with trawlers and individuals of at least 25 species are documented to have been killed by trawl nets, including several large whales, porpoises, and a variety of delphinids (Karpouzli and Leaper, 2004; Hall *et al.,* 2000; Fertl and Leatherwood, 1997; Northridge, 1991). At least eighteen species of seals and sea lions are known to have been killed in trawl nets (Wickens, 1995). Generally, direct interaction between trawl nets and marine mammals (both cetaceans and pinnipeds) has been recorded wherever trawling and animals co-occur. Tables 8, 9, and 10 (later in this document) display more recent information regarding interactions specifically in U.S. fisheries and are more relevant to the development of take estimates for this proposed rule. In evaluating risk relative to a specific fishery (or comparable research survey), one must consider the size of the net as well as frequency, timing, and location of deployment. These considerations inform determinations of whether interaction with marine mammals is likely. For example, in most cases, research gear employs smaller nets and shorter longlines than commercial gear. Similarly, net soak times for research are often shorter than commercial fisheries and, in many cases, are monitored.

Longlines—Longlines are basically strings of baited hooks that are either anchored to the bottom, for targeting groundfish, or are free-floating, for targeting pelagic species and represent a passive fishing technique. Pelagic longlines, which notionally fish near the surface with the use of floats, may be deployed in such a way as to fish at different depths in the water column. For example, deep-set longlines targeting tuna may have a target depth of 400 m, while a shallow-set longline targeting swordfish is set at 30–90 m depth. We refer here to bottom and pelagic longlines. Any longline generally consists of a mainline from which leader lines (gangions) with baited hooks branch off at a specified interval, and is left to passively fish, or soak, for a set period of time before the vessel returns to retrieve the gear. Longlines are marked by two or more floats that act as visual markers and may also carry radio beacons; aids to detection are of particular importance for pelagic longlines, which may drift a significant distance from the deployment location. Pelagic longlines are generally composed of various diameter monofilament line and are generally much longer, and with more hooks, than are bottom longlines. Bottom longlines may be of monofilament or multifilament natural or synthetic lines.

Marine mammals may be hooked or entangled in longline gear, with interactions potentially resulting in death due to drowning, strangulation, severing of carotid arteries or the esophagus, infection, an inability to evade predators, or starvation due to an inability to catch prey (Hofmeyr *et al.,* 2002), although it is more likely that animals will survive being hooked if they are able to reach the surface to breathe. Injuries, which may include serious injury, include lacerations and puncture wounds. Animals may attempt to depredate either bait or catch, with subsequent hooking, or may become accidentally entangled. As described for trawls, entanglement can lead to constricting lines wrapped around the animals and/or immobilization, and even if entangling materials are removed the wounds caused may continue to weaken the animal or allow further infection (Hofmeyr *et al.,* 2002). Large whales may become entangled in a longline and then break free with a portion of gear trailing, resulting in alteration of swimming energetics due to drag and ultimate loss of fitness and potential mortality (Andersen *et al.,* 2008). Weight of the gear can cause entangling lines to further constrict and further injure the animal. Hooking injuries and ingested gear are most common in small cetaceans and pinnipeds but have been observed in large cetaceans (*e.g.,* sperm whales). The severity of the injury depends on the species, whether ingested gear includes hooks, whether the gear works its way into the gastrointestinal (GI) tract, whether the gear penetrates the GI lining, and the location of the hooking (*e.g.,* embedded in the animal's stomach

or other internal body parts) (Andersen *et al.,* 2008). Bottom longlines pose less of a threat to marine mammals due to their deployment on the ocean bottom, but can still result in entanglement in buoy lines or hooking as the line is either deployed or retrieved. The rate of interaction between longline fisheries and marine mammals depends on the degree of overlap between longline effort and species distribution, hook style and size, type of bait and target catch, and fishing practices (such as setting/hauling during the day or at night).

The NEFSC plans to use pelagic and bottom longline gear in four programs: The Apex Predators Bottom Longline Coastal Shark, Apex Predators Pelagic Nursery Grounds Shark, Apex Predator Pelagic Longline Shark, and Cooperative Atlantic States Shark Pupping and Nursery (COASTSPAN) Longline surveys. The NEFSC has no recorded marine mammal interactions during the conduct of its pelagic and bottom longline surveys in the Atlantic coast region. While the NEFSC has not historically interacted with large whales or other cetaceans in its longline gear, documentation exists that some of these species are taken in commercial longline fisheries. NEFSC uses a shorter mainline length and lower number of hooks relative to that of commercial fisheries.

Gillnets—Marine mammal interactions with gillnets, through entanglement, are well-documented (Reeves *et al.,* 2013). At least 75 percent of odontocete species, 64 percent of mysticetes, 66 percent of pinnipeds, all sirenians, and marine mustelids have been recorded as gillnet bycatch over the past 20-plus years (Reeves *et al.,* 2013). Reeves et al. (2013) note that numbers of marine mammals killed in gillnets tend to be greatest for species that are widely distributed in coastal and shelf waters. Common dolphins and striped dolphins, for example, have continued to be taken in large numbers globally despite the fact that large-scale driftnet fishing on the high seas has been illegal since 1993, eliminating one source of very large bycatches of northern right whale dolphins and common dolphins (Reeves *et al.,* 2013).

Minke whales are probably especially vulnerable to gillnet entanglement for several reasons, including their near-shore and shelf occurrence, their proclivity for preying on fish species that are also targeted by net fisheries, and their small size and consequently greater difficulty (compared to the larger mysticetes) of extricating themselves once caught (Reeves *et al.,* 2013).

Entanglement in fishing gear and bycatch in commercial fisheries occur with regularity in the Northeast and Mid-Atlantic regions and are the primary known causes of mortality and serious injury for pinnipeds in these areas. Gillnets are responsible for most observed and reported bycatch for marine mammals (Lewison *et al.,* 2014; Zollett, 2009). From 2013–2017, the total human caused mortality and serious injury to harbor seals is estimated to be 350 per year (338 from fisheries and 12 from non-fishery-related interaction stranding mortalities) (Hayes, Josephson et al. 2020). The average annual estimated human-caused mortality and serious injury to gray seals in the U.S. and Canada was 5,410 per year for the period 2013–2017 (946 U.S./4,464 Canada). This average is based on: 940 from U.S. observed fisheries; 5.6 from non-fishery human interaction stranding and shooting mortalities in the U.S.; 0.8 from U.S. research mortalities; 672 Canadian commercial harvest; 55 from the DFO scientific collections; and 3,737 removals of nuisance animals in Canada (DFO 2017, Mike Hammill pers. comm; as cited in Hayes, Josephson et al. 2020).

Fyke Nets

Fyke nets are bag-shaped nets which are held open by frames or hoops. The fyke nets used in NEFSC survey activities are constructed of successively smaller plastic coated square metal tube frames that are covered with mesh net (0.6 centimeters for small, 1.9 centimeters for large). Each net has two throats tapering to a semi-rigid opening. The final compartment of the net is configured with a rigid framed live box (2 x 2 x 3 meters) at the surface for removal of catch directly from above without having to retrieve the entire net. Fyke nets are normally set inshore by small boat crews. It is unknown whether fyke nets have been responsible for marine mammal mortality or serious injury (NMFS 2021).

In commercial fisheries, fyke nets fall into Category III on the List of Fisheries. Although bycatch is well known and well studied in marine fisheries, there are few studies on bycatch in freshwater fisheries using fyke nets (Larocque *et al.,* 2011). Fyke nets are passive fishing gear that have limited species selectivity and are set for long durations (Hubert, 1996; Larocque *et al.,* 2011). Thus, this gear has the potential to capture non-targeted fauna that use the same habitat as targeted species, even without the use of bait (Larocque *et al.,* 2011). Mortality in fyke nets can arise from stress and injury associated with anoxia, abrasion, confinement, and starvation (Larocque *et al.,* 2011); however, it is unknown whether fyke nets have been responsible for marine mammal mortality or serious injury (NMFS 2021).

Other Research Gear—All other gears used in NEFSC fisheries research (*e.g.,* a variety of plankton nets, CTDs, ROVs) do not have the expected potential for marine mammal interactions, and are not known to have been involved in any marine mammal interaction. Specifically, these include CTDs, XBTs, CUFES, ROVs, small trawls (Oozeki, IKMT, MOCNESS, and Tucker trawls), plankton nets (Bongo, Pairovet, and Manta nets), and vertically deployed or towed imaging systems to be no-impact gear types.

Unlike trawl nets and longline gear, which are used in both scientific research and commercial fishing applications, these other gears are not considered similar or analogous to any commercial fishing gear and are not designed to capture any commercially-salable species, or to collect any sort of sample in large quantities. They are not considered to have the potential to take marine mammals primarily because of their design and how they are deployed. For example, CTDs are typically deployed in a vertical cast on a cable and have no loose lines or other entanglement hazards. A Bongo net is typically deployed on a cable, whereas neuston nets (these may be plankton nets or small trawls) are often deployed in the upper one meter of the water column; either net type has very small size (*e.g.,* two bongo nets of 0.5 m^2 each or a neuston net of approximately 2 m^2) and no trailing lines to present an entanglement risk. These other gear types are not considered further in this document.

NEFSC Gear Interactions

From 2004 through 2015, NEFSC documented ten individual marine mammals that were killed from interactions with NEFSC's gear: Six were killed due to capture in gillnets, a harbor seal suffered mortality in fyke nets, and one minke whale was caught in trawl gear and released alive. No interactions with NEFSC survey gear were observed in 2016, 2017 or 2018.

On September 24, 2019, during a Cooperative Research NTAP cruise sponsored by the NEFSC, a small common dolphin (Length = 231 cm approx. 150 lbs) was found dead from entanglement in fishing gear upon inspection of the catch. The gear was a 4 seam 3 bridle Bigelow trawl net with a spread restrictor cable. The take occurred during reduced visibility (at night/early morning conditions), so visually scanning for marine mammals

was difficult. Deployment of the net took place within fifteen minutes of arrival on station during which time no marine mammals were present or sighted during the approach or at the sampling site. Vessel personnel maintained watch for marine mammals during trawling operations. None were sighted, so the station was completed. The tows were short in duration (20 minutes) and the vessel maintained a consistent tow speed of 3 knots. During fishing, there was no indication there was a marine mammal in the net nor were any marine mammals observed. Upon completion of the trawl, the nets (twin trawl) were recovered and each catch was dumped immediately into a checker. It was at this time, the marine mammal was detected (fresh dead). No other marine mammals were observed in the net or in the water. More details on this interaction can be found the NEFSC 2019 Annual Monitoring available at *https://www.fisheries.noaa.gov/action/incidental-take-authorization-noaa-fisheries-nefsc-fisheries-and-ecosystem-research.* In 2020, no interactions with marine mammals occurred.

Acoustic Effects

Detailed descriptions of the potential effects of NEFSC's use of acoustic sources are provided in other **Federal Register** notice for the original incidental take regulations issued to the NEFSC (80 FR 39542; January 9, 2015) and, more recently, other NMFS Science Centers (*e.g.,* the ''Acoustic Effects'' section of the proposed rule for the taking of marine mammals incidental to NMFS Alaska Fisheries Science Center fisheries research (83 FR 37660; August 1, 2018), and the ''Potential Effects of Underwater Sound'' section of the proposed rule for the taking of marine mammals incidental to NMFS Southeast Fisheries Science Center research (84 FR 6603; February 27, 2019). No significant new information is available, and those discussions provide the necessary adequate and relevant information regarding the potential effects of NEFSC's specified activity on marine mammals and their habitat. Therefore, we refer the reader to those documents rather than repeating the information here.

Exposure to sound through the use of active acoustic systems for research purposes may result in Level B harassment. However, as detailed in the previously referenced discussions, Level A harassment in the form of permanent threshold shift (PTS) is extremely unlikely to occur, and we consider such effects discountable. With specific reference to Level B harassment that may occur as a result of acoustic exposure, we note that the analytical methods described in the incidental take regulations for other NMFS Science Centers are retained here. However, the state of science with regard to our understanding of the likely potential effects of the use of systems like those used by NEFSC has advanced in recent years, as have readily available approaches to estimating the acoustic footprints of such sources, with the result that we view this analysis as highly conservative. Although more recent literature provides documentation of marine mammal responses to the use of these and similar acoustic systems (*e.g.,* Cholewiak *et al.,* 2017; Quick *et al.,* 2017; Varghese *et al.,* 2020), the described responses do not generally comport with the degree of severity that should be associated with Level B harassment, as defined by the MMPA. We retain the analytical approach described in the incidental take regulations for other NMFS Science Centers for consistency with existing analyses and for purposes of efficiency here, and consider this acceptable because the approach provides a conservative estimate of potential incidents of Level B harassment (see ''Estimated Take'' section of this notice). In summary, while we propose to authorize the amount of take by Level B harassment indicated in the ''Estimated Take'' section, and consider these potential takings at face value in our negligible impact analysis, it is uncertain whether use of these acoustic systems are likely to cause take at all, much less at the estimated levels.

Potential Effects of Visual Disturbance

The NEFSC anticipates that some trawl and fyke net surveys may disturb a small number of pinnipeds during the conduct of these activities in upper Penobscot Bay above Fort Point Ledge, ME. Specifically, two surveys have the potential to harass pinnipeds from visual disturbance: The Penobscot Estuarine Fish Community and Ecosystem Survey (trawls) and the Marine Estuaries Diadromous Survey (fyke nets). Pinnipeds are expected to be hauled out on tidal ledges and at times may experience incidental close approaches by the survey vessel and/or researchers during the course of its fisheries research activities. The NEFSC expects that some of these animals will exhibit a behavioral response to the visual stimuli (*e.g.,* including alert behavior, movement, vocalizing, or flushing). NMFS does not consider the lesser reactions (*e.g.,* alert behavior) to constitute harassment. These events are expected to be infrequent and cause only a temporary disturbance on the order of minutes.

In areas where disturbance of haulouts due to periodic human activity (*e.g.,* researchers approaching on foot, passage of small vessels, maintenance activity) occurs, monitoring results have generally indicated that pinnipeds typically move or flush from the haulout in response to human presence or visual disturbance, although some individuals typically remain hauled out (*e.g.,* SCWA, 2012). The nature of response is generally dependent on species. For example, California sea lions and northern elephant seals have been observed as less sensitive to stimulus than harbor seals during monitoring at numerous sites. Monitoring of pinniped disturbance as a result of abalone research in the Channel Islands showed that while harbor seals flushed at a rate of 69 percent, California sea lions flushed at a rate of only 21 percent. The rate for elephant seals declined to 0.1 percent (VanBlaricom, 2010).

Upon the occurrence of low-severity disturbance (*i.e.,* the approach of a vessel or person as opposed to an explosion or sonic boom), pinnipeds typically exhibit a continuum of responses, beginning with alert movements (*e.g.,* raising the head), which may then escalate to movement away from the stimulus and possible flushing into the water. Flushed pinnipeds typically re-occupy the haulout within minutes to hours of the stimulus.

In a popular tourism area of the Pacific Northwest where human disturbances occurred frequently, past studies observed stable populations of seals over a twenty-year period (Calambokidis *et al.,* 1991). Despite high levels of seasonal disturbance by tourists using both motorized and non-motorized vessels, Calambokidis *et al.* (1991) observed an increase in site use (pup rearing) and classified this area as one of the most important pupping sites for seals in the region. Another study observed an increase in seal vigilance when vessels passed the haulout site, but then vigilance relaxed within ten minutes of the vessels' passing (Fox, 2008). If vessels passed frequently within a short time period (*e.g.,* 24 hours), a reduction in the total number of seals present was also observed (Fox, 2008).

Level A harassment, serious injury, or mortality could likely only occur as a result of trampling in a stampede (a potentially dangerous occurrence in which large numbers of animals succumb to mass panic and rush away from a stimulus) or abandonment of pups. However, given the nature of

potential disturbance—which would entail the gradual and highly visible approach of a small vessel and small research crew—we would expect that pinnipeds would exhibit a gradual response escalation, and that stampeding or abandonment of pups would likely not be an issue. Further, neither survey with potential for harassment from visual disturbance overlaps with the gray seal pupping period.

Disturbance of pinnipeds caused by NEFSC survey activities—which are sparsely distributed in space and time—would be expected to last for only short periods of time, separated by significant amounts of time in which no disturbance occurred. The Penobscot Estuarine Fish Community and Ecosystem Survey uses shrimp trawls and occurs over 12 days per year split between spring, summer and fall seasons. The Marine Estuaries Diadromous Survey uses fyke nets and takes place over 100 days from April to November. Because such disturbance is sporadic, rather than chronic, and of low intensity, individual marine mammals are unlikely to incur any detrimental impacts to vital rates or ability to forage and, thus, loss of fitness. Correspondingly, even local populations, much less the overall stocks of animals, are extremely unlikely to accrue any significantly detrimental impacts.

Anticipated Effects on Marine Mammal Habitat

Effects to Prey—In addition to direct, or operational, interactions between fishing gear and marine mammals, indirect (*i.e.,* biological or ecological) interactions occur as well, in which marine mammals and fisheries both utilize the same resource, potentially resulting in competition that may be mutually disadvantageous (*e.g.,* Northridge, 1984; Beddington *et al.,* 1985; Wickens, 1995). Marine mammal prey varies by species, season, and location and, for some marine mammals, is not well documented. NEFSC fisheries research removals of species commonly utilized by marine mammals are relatively low. Prey of sei whales and blue whales are primarily zooplankton, which are targeted by NEFSC fisheries research with collection only on the order of liters, so the likelihood of research activities changing prey availability is low and impact negligible to none. Prey species biomass removed during NEFSC surveys is very small relative to their overall biomass in the area and is a very small percentage of the Allowable Biological Catch (ABC). For example, NEFSC fisheries research activities may affect sperm whale prey (squid), but this is expected to be minor due to the insignificant amount of squid removed through fisheries research (*i.e.,* 4 tons in 2017). However, here the removal by NEFSC fisheries research, regardless of season and location is minor relative to that taken through commercial fisheries. For example, commercial fisheries catches for most pelagic species typically range from the hundreds to thousands of metric tons, whereas the catch in similar fisheries research activities would only occasionally range as high as hundreds to thousands of pounds in any particular year (see Table 9–1 of the NEFSC Application for more information on fish catch during research surveys and commercial harvest). In addition to the small amount of biomass removed, the size classes of fish targeted in research surveys are juvenile individuals, some of which are only centimeters long; these small size classes are not known to be prey of marine mammals.

Research catches are also distributed over a wide area because of the random sampling design covering large sample areas. Fish removals by research are therefore highly localized and unlikely to affect the spatial concentrations and availability of prey for any marine mammal species. The overall effect of research catches on marine mammals through competition for prey may therefore be considered insignificant for all species.

Physical Habitat—NEFSC conducts some bottom trawling, which may physically damage seafloor habitat. In addition, NEFSC fishery research activities use bottom contact fishing gear, including otter trawls, sea scallop dredges, and hydraulic surfclam dredges. Other fishing gear that contacts the seafloor, such as pots and traps, can cause physical damage but the impacts are localized and minimal as this type of gear is fixed in position. The ropeless lobster traps planned for ongoing use would have minimal effect of seafloor habitat. Physical damage may include furrowing and smoothing of the seafloor as well as the displacement of rocks and boulders, and such damage can increase with multiple contacts in the same area (Schwinghamer *et al.,* 1998; Kaiser *et al.,* 2002; Malik and Mayer, 2007; NRC, 2002). The effects of bottom contact gear differ in each type of benthic environment. In sandy habitats with strong currents, the furrows created by mobile bottom contact gear quickly begin to erode because lighter weight sand at the edges of furrows can be easily moved by water back towards the center of the furrow (NRC, 2002). Duration of effects in these environments therefore tend to be very short because the terrain and associated organisms are accustomed to natural disturbance. By contrast, the physical features of more stable hard bottom habitats are less susceptible to disturbance, but once damaged or removed by fishing gear, the organisms that grow on gravel, cobbles, and boulders can take years to recover, especially in deeper water where there is less natural disturbance (NRC, 2002). However, the area of benthic habitat affected by NEFSC research each year would be a very small fraction of total area of benthic habitat in the research areas.

Damage to seafloor habitat may also harm infauna and epifauna (*i.e.,* animals that live in or on the seafloor or on structures on the seafloor), including corals (Schwinghamer *et al.,* 1998; Collie *et al.,* 2000; Stevenson *et al.,* 2004). In general, recovery from biological damage varies based on the type of fishing gear used, the type of seafloor surface (*i.e.,* mud, sand, gravel, mixed substrate), and the level of repeated disturbances. Recovery timelines of 1–18 months are expected. However, repeated disturbance of an area can prolong the recovery time (Stevenson *et al.,* 2004), and recovery of corals may take significantly longer than 18 months.

Organisms such as cold water corals create structure on the seafloor that not only contain a high diversity of corals but also provide an important habitat for other infauna (Stevenson, Chiarella et al. 2004). Cold water corals are generally slow growing, fragile and long lived that makes them particularly vulnerable to damage. Fishing gear that contacts coral can break or disrupt corals reducing structural complexity and reducing species diversity of the corals and other animals that utilize this habitat (Freiwald, Fossa et al. 2004). The extent of overlap between cold water corals and NEFSC survey vessels is expected to be limited given the small number and small areal extent of NEFSC surveys and funded fishery research using bottom trawl and dredging equipment. In addition, only two surveys occur outside of the LME, the Deepwater Biodiversity Survey and the Deep-sea Corals Survey. Neither of these surveys use bottom contacting gear. Although fisheries research effects on corals may be long-term, the magnitude of this potential effect is negligible.

Fishing gear that contacts the seafloor can increase the turbidity of the water by suspending fine sediments and benthic algae. Suspension of fine sediments and turnover of sediment can

also alter the geochemistry of the seafloor and the water column, but impacts of alteration of turbidity and geochemistry in the water column are not very well understood (Stevenson, Chiarella et al. 2004). These types of effects from fisheries research activities would be periodic, temporary, and localized and are considered negligible.

As described in the preceding, the potential for NEFSC research to affect the availability of prey to marine mammals or to meaningfully impact the quality of physical or acoustic habitat is considered to be insignificant for all species. Effects to marine mammal habitat will not be discussed further in this document.

Estimated Take

This section provides an estimate of the number of incidental takes proposed for authorization through this IHA, which will inform both NMFS' consideration of ''small numbers'' and the negligible impact determination.

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).

Take of marine mammals incidental to NEFSC research activities could occur as a result of (1) injury or mortality due to gear interaction (Level A harassment, serious injury, or mortality); (2) behavioral disturbance resulting from the use of active acoustic sources (Level B harassment only); or (3) behavioral disturbance of pinnipeds resulting from incidental approach of researchers and research vessels (Level B harassment only). Below we describe how the potential take is estimated.

Estimated Take Due to Gear Interaction

To estimate the number of potential takes that could occur by M/SI and Level A through gear interaction, consideration of past interactions between gear (*i.e.,* trawl, gillnet, and fyke gear) used by NEFSC and specific marine mammal species provides important context. We also considered other species that have not been taken by NEFSC but are similar enough in nature and behavioral patterns as to consider them having the potential to be entangled. As described in the ''Potential Effects of Marine Mammals and their Habitat'' section, NEFSC has a history of taking marine mammals in fishing gear, albeit a very small amount compared to the amount of fishing effort. From 2004–2015, eight marine mammals were killed in interactions with trawl gear (common dolphin, gray seal), six were killed due to capture in gillnets (Common bottlenose, Northern South Carolina estuarine stock, gray seal, harbor porpoise and bottlenose dolphin), and one suffered mortality in a fyke net (harbor seal). Also over that time period, one minke whale was caught in trawl gear and released alive. We note these interactions occurred prior to implementation of the existing regulations which heightened mitigation and monitoring efforts. From 2016–2018, no marine mammals were taken incidental to fishing. A lethal take of a common dolphin during a Cooperative Research NTAP cruise sponsored by the Center occurred in late September 2019. The gear was a 4 seam 3 bridle Bigelow net with a spread restrictor cable. In 2020, no takes occurred.

Historical Interactions—In order to estimate the number of potential incidents of take that could occur by M/SI through gear interaction, we first consider the NEFSC's past record of such incidents, and then consider in addition other species that may have similar vulnerabilities to the NEFSC's trawl, gillnet, and fyke net gear for which we have historical interaction records. We describe historical interactions with NEFSC research gear in Tables 6, 7, and 8. Available records are for the years 2004 through the present. Please see Figure 4.2–2 in the NEFSC EA for specific locations of these incidents up through 2020.

TABLE 6—HISTORICAL INTERACTIONS WITH TRAWL GEAR

Gear	Survey	Date	Species	Number killed	Number released alive	Total
Gourock high speed midwater rope trawl.	Atlantic Herring Survey	10/8/2004	Short-beaked common dolphin (Western NA stock).	2	0	2
Bottom trawl (4-seam, 3 bridle).	NEFSC Standard Bottom Trawl Survey.	11/11/2007	Short-beaked common dolphin (Western NA stock).	1	0	1
Gourock high speed midwater rope trawl.	Atlantic Herring Survey	10/11/2009	Minke whale	0	[1] 1	1
Bottom trawl (4-seam, 3 bridle).	Spring Bottom Trawl Survey	4/4/15	Gray seal	[2] 1	0	1
Bottom trawl (4-seam, 3 bridle).	Cooperative NTAP	9/24/19	Short-beaked common dolphin (Western NA stock).	1	0	1
Total individuals captured (total number of interactions given in parentheses).			Short-beaked common dolphin (4).	4	0	4
			Minke whale (1)	0	1	1
			Gray seal (1)	1	0	1

[1] According to the incident report, ''The net's cod end and whale were brought aboard just enough to undo the cod end and free the whale. It was on deck for about five minutes. While on deck, it was vocalizing and moving its tail up and down. The whale swam away upon release and appeared to be fine. Estimated length was 19 feet.'' The NEFSC later classified this incidental take as a serious injury using NMFS criteria for such determinations published in January 2012 (Cole and Henry, 2013).

[2] The NEFSC filed an incident report for this incidental take on April 4, 2015.

TABLE 7—HISTORICAL INTERACTIONS WITH GILLNET GEAR

Gear	Survey	Date	Species	Number killed	Number released alive	Total
Gillnet	COASTSPAN	11/29/2008	Common Bottlenose dolphin (Northern South Carolina Estuarine System stock) [1].	1	0	1
Gillnet	NEFOP Observer Gillnet Training Trips.	5/4/2009	Gray seal	1	0	1
Gillnet	NEFOP Observer Gillnet Training Trips.	5/4/2009	Harbor porpoise	1	0	1
Total individuals captured (total number of interactions given in parentheses).			Bottlenose dolphin (1)	1	0	1
			Gray seal (1)	1	0	1
			Harbor porpoise (1)	1	0	1

[1] In 2008, the COASTSPAN gillnet survey caught and killed one common bottlenose dolphin in 2008 while a cooperating institution was conducting the survey in South Carolina. This was the only occurrence of incidental take in these surveys. Although no genetic information is available from this dolphin, based on the location of the event, NMFS retrospectively assigned this mortality to the Northern South Carolina Estuarine System stock in 2015 from the previous classification as the western North Atlantic stock (Waring *et al.,* 2014).

TABLE 8—HISTORICAL INTERACTIONS WITH FYKE NET GEAR

Gear	Survey	Date	Species	Number killed	Number released alive	Total
Fyke Net	Maine Estuaries Diadromous Survey.	10/25/2010	Harbor seal	1	0	1
Total			1	0	1	

The NEFSC has no recorded interactions with any gear other than midwater and bottom trawl, gillnet, and fyke net gears. As noted previously in ''Potential Effects of the Specified Activity on Marine Mammals,'' we anticipate future interactions with the same gear types.

In order to use these historical interaction records in a precautionary manner as the basis for the take estimation process, and because we have no specific information to indicate whether any given future interaction might result in M/SI versus Level A harassment, we conservatively assume that all interactions equate to mortality.

In order to estimate the potential number of incidents of M/SI take that could occur incidental to the NEFSC's use of midwater and bottom trawl, gillnet, fyke net, and longline gear in the Atlantic coast region over the five-year period the rule would be effective (2021–2026), we first look at the six species described that have been taken historically and then evaluate the potential vulnerability of additional species to these gears.

Table 9 shows the average annual captures rate of these six species and the projected five-year totals for this proposed rule, for trawl, gillnet, and fyke net gear. Below we describe how these data were used to estimate future take for these and proxy species which also have the potential to be taken.

TABLE 9—AVERAGE RATE OF ANIMAL GEAR INTERACTION FROM 2004–2020

Gear	Species	Average rate per year (2004–2020)
Trawl	Short-beaked common dolphin	0.27
	Minke whale	0.06
	Gray seal	0.06
Gillnet	Common bottlenose dolphin	0.06
	Harbor porpoise	0.06
	Gray seal	0.06
Fyke net	Harbor seal	0.06

The NEFSC only estimated takes for NEFSC gear that: (1) Had a prior take in the historical record, or (2) by analogy to commercial fishing gear. Further, given the rare events of M/SI in NEFSC fishery research, the NEFSC binned gear into categories (*e.g.,* trawls) rather than partitioning take by gear, as it would result in estimated takes that far exceed the recorded take history.

Vulnerability of analogous species to different gear types is informed by the record of interactions by the analogous and reference species with commercial fisheries using gear types similar to those used in research. Furthermore, when determining the amount of take requested, we make a distinction between analogous species thought to have the same vulnerability for incidental take as the reference species and those analogous species that may have a similar vulnerability. In those cases thought to have the same

vulnerability, the request is for the same number per year as the reference species. In those cases thought to have similar vulnerability, the request is less than the reference species. For example, the NEFSC believes the vulnerability of harbor seals to be taken in gillnets is the same as for gray seals (one per year) and thus requests one harbor seal per year (total of 5 over the authorization period). Alternatively, the potential for take of Atlantic white-sided dolphins in gillnets is expected to be similar to harbor porpoise (one per year), and the reduced request relative to this reference species is one Atlantic white sided dolphin over the entire five-year authorization period.

The approach outlined here reflects: (1) Concern that some species with which we have not had historical interactions may interact with these gears, (2) acknowledgment of variation between sets, and (3) understanding that many marine mammals are not solitary so if a set results in take, the take could be greater than one animal. In these particular instances, the NEFSC estimates the take of these species to be equal to the maximum interactions per any given set of a reference species historically taken during 2004–2019.

Trawls—To estimate the requested taking of analogous species, the NEFSC identified several species in the western North Atlantic Ocean which may have similar vulnerability to research-based trawls as the short-beaked common dolphin. Short-beaked common dolphins were taken in 2004 (two individuals in one trawl set) and in 2019 (one dolphin during a bottom trawl). The NEFSC therefore estimates one take of a short-beaked common dolphin per year over the 5-year period to be precautionary (*i.e.,* five total). On the basis of similar vulnerability of other dolphin species, the NEFSC estimates two potential takes over the five-year authorization period for each of the following species in trawls: Risso's dolphin, common bottlenose dolphin (offshore and northern coastal migratory stock), Atlantic-white-sided dolphin, white-beaked dolphin, Atlantic spotted dolphin, and harbor porpoise. For these species, we propose to authorize a total taking by M/SI of two individuals over the five-year timespan (Table 10).

In light of the low level of interaction and the mitigation measures to specifically reduce interactions with dolphins during COASTSPAN surveys such as hand-checking the gill net every 20 minutes, no takes are requested from the Southern Migratory, Coastal or Estuarine stocks of common bottlenose dolphin. Other dolphin species may have similar vulnerabilities as those listed above but because of the timing and location of NEFSC research activities, the NEFSC concluded that the likelihood for take of these species was low and therefore is not requesting, nor it NMFS proposing to authorize, take for the following species: Pantropical spotted dolphin, striped dolphin, Fraser's dolphin, rough-toothed dolphin, Clymene dolphin, and spinner dolphin.

In 2015, one gray seal was killed during a trawl survey. Similar to other gear, the NEFSC believes that harbor seals have a similar vulnerability for incidental take as gray seals in this type of gear. To be conservative, for the period of this authorization, the NEFSC has requested one take by trawl for harbor seals each year over the five-year authorization period. Thus, for harbor and gray seals, we propose to authorize a total taking by M/SI of five individuals over the five-year timespan for trawl gear (Table 10).

Gillnets—To estimate the requested take of analogous species for gillnets, the NEFSC identified several species in the western North Atlantic Ocean which may have similar vulnerability to research-based gillnet surveys as the short-beaked common dolphin—due to similar behaviors and distributions in the survey areas.

Gillnet surveys typically occur nearshore in bays and estuaries. One gray seal and one harbor porpoise were caught during a Northeast Fisheries Observer Program training gillnet survey. The NEFSC believes that harbor seals have the same vulnerability to be taken in gillnets as gray seals and therefore estimates five takes of harbor seals in gillnets over the five-year authorization period. For this species, we propose to authorize a total taking by M/SI of five individuals over the five-year timespan (see Table 10).

Likewise, the NEFSC believes that Atlantic white-sided dolphins and short-beaked common dolphins have a similar vulnerability to be taken in gillnets as harbor porpoise and bottlenose dolphins (Waring *et al.,* 2014) and estimates one take each of Atlantic white-sided dolphin and short-beaked common dolphin in gillnet gear over the five-year authorization period. For these species, we propose to authorize a total taking by M/SI of one individual (per species) over the five-year timespan (Table 10).

In 2008, a cooperating institution conducting the COASTSPAN gillnet survey in South Carolina caught and killed one bottlenose dolphin. Despite years of effort since that time, this was the only occurrence of incidental take in these surveys. The survey now imposes strict monitoring and mitigation measures (see sections below on Proposed Mitigation and Proposed Monitoring and Reporting). With regard to common bottlenose dolphins, M/SI takes are only requested for offshore and Northern migratory stocks (10 total over the 5-year period). Given the lack of recent take and the implementation of additional monitoring and mitigation measures, the NEFSC is not requesting, and NMFS is not proposing to authorize, take of bottlenose dolphins belonging to the Southern Coastal Migratory or Estuarine stocks as the NEFSC considers there to be a remote chance of incidentally taking a bottlenose dolphin from the estuarine stocks. However, in the future, if there is a bottlenose dolphin take from the estuarine stocks as confirmed by genetic sampling, the NEFSC will reconsider its take request in consultation and coordination with OPR and the Atlantic Bottlenose Dolphin Take Reduction Team.

In 2009, one gray seal was killed during a gillnet survey. Similar to other gear, the NEFSC believes that harbor seals have a similar vulnerability for incidental take as gray seals in this type of gear. To be conservative, for the period of this authorization, the NEFSC has requested one take by gillnet for harbor seals each year over the five-year authorization period. Thus, for harbor and gray seals, we propose to authorize a total taking by M/SI of five individual over the five-year timespan (Table 10).

Fyke nets—For fyke nets, the NEFSC believes that gray seals have a similar vulnerability for incidental take as harbor seals which interacted once in a single fyke net set during the past 11 years. However, to be conservative, for the period of this authorization, the NEFSC has requested one take by fyke net for gray seals each year over the five-year authorization period. Thus, for gray seals, we propose to authorize a total taking by M/SI of five individual over the five-year timespan (Table 10).

Longlines—While the NEFSC has not historically interacted with large whales or other cetaceans in its longline gear, it is well documented that some of these species are taken in commercial longline fisheries. The 2020 List of Fisheries classifies commercial fisheries based on prior interactions with marine mammals. Although the NEFSC used this information to help make an informed decision on the probability of specific cetacean and large whale interactions with longline gear, many other factors were also taken into account (*e.g.,* relative survey effort, survey location, similarity in gear type,

animal behavior, prior history of NEFSC interactions with longline gear, *etc.*). Therefore, there are several species that have been shown to interact with commercial longline fisheries but for which the NEFSC is not requesting take. For example, the NEFSC is not requesting take of large whales, long-finned pilot whales, and short-finned pilot whales in longline gear. Although these species could become entangled in longline gear, the probability of interaction with NEFSC longline gear is extremely low considering a low level of survey effort relative to that of commercial fisheries, the short length of the mainline, and low numbers of hooks used. Based on the amount of fish caught by commercial fisheries versus NEFSC fisheries research, the ''footprint'' of research effort compared to commercial fisheries is very small. For example, NEFSC uses a shorter mainline length and lower number of hooks relative to that of commercial fisheries. The NEFSC considered previously caught species in analogous commercial fisheries to have a higher probability of take; however, all were not included for potential take by the NEFSC. Additionally, marine mammals have never been caught or entangled in NEFSC longline gear; if interactions occur marine mammals depredate caught fish from the gear but leave the hooks attached and unaltered. They have never been hooked nor had hooks taken off gear during depredation. However, such gear could be considered analogous to potential commercial longline surveys that may be conducted elsewhere (*e.g.,* Garrison, 2007; Roche *et al.* 2007; Straley *et al.,* 2014). Given that the NEFSC experienced a single interaction of a common dolphin during the effective period of the current LOA to date, the proposed issuance of this amount of take, by species, is reasonably conservative.

The estimated take, by M/SI, is identical to that proposed and authorized to the NEFSC for the 2016–2020 LOA except for take pertaining to the southern migratory coastal stock of bottlenose dolphins. The 2016–2021 LOA authorizes 8 takes from this stock. According to the SAR, 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. North of Cape Hatteras during summer months, there is strong separation between the coastal and offshore morphotypes (Kenney 1990; Garrison et al. 2017a), and the coastal morphotype is nearly completely absent in waters >20 m. However, the NEFSC has determined that because research effort is low in the habitat range of this stock and NEFSC has no documented takes of dolphins belonging to the southern migratory coastal stock, they are not requesting, and NMFS is not proposing to authorize, take.

TABLE 10—TOTAL ESTIMATED M/SI DUE TO GEAR INTERACTION IN THE ATLANTIC COAST REGION

Species	5-Year total, trawl [1]	5-Year total, gillnet [1]	5-Year total, longline [1]	5-Year total, fyke net [1]	5-Yr total, all gears
Minke whale	5	0	0	0	5
Risso's dolphin	2	0	1	0	3
Atlantic white-sided dolphin	2	1	0	0	3
White-beaked dolphin	2	0	0	0	2
Short-beaked common dolphin	5	1	1	0	7
Atlantic spotted dolphin	2	0	0	0	2
Common bottlenose dolphin (WNA offshore stock) [1]	2	5	1	0	8
Common bottlenose dolphin (WNA N. Migratory stock) [1]	2	5	1	0	8
Harbor porpoise	2	5	0	0	7
Harbor seal	5	5	0	5	15
Gray seal	5	5	0	5	15

[1] The NEFSC re-evaluated sampling locations and effort after submission of their LOA application and is not requesting takes for the southern migratory stock of bottlenose dolphins as fishing effort is very low.

Estimated Take From Scientific Sonar

As described previously, we believe it unlikely that NEFSC use of active acoustic sources is realistically likely to cause Level B harassment of marine mammals. However, per NEFSC request, we conservatively assume that, at worst, Level B harassment may result from exposure to noise from these sources, and we carry forward the analytical approach developed in support of the 2015 rule. At that time, in order to quantify the potential for Level B harassment to occur, NMFS developed an analytical framework considering characteristics of the active acoustic systems, their expected patterns of use, and characteristics of the marine mammal species that may interact with them. The framework incorporated a number of deliberately precautionary, simplifying assumptions, and the resulting exposure estimates, which are presumed here to equate to take by Level B harassment (as defined by the MMPA), may be seen as an overestimate of the potential for such effects to occur as a result of the operation of these systems.

Regarding the potential for Level A harassment in the form of permanent threshold shift to occur, the very short duration sounds emitted by these sources reduces the likely level of accumulated energy an animal is exposed to. An individual would have to remain exceptionally close to a sound source for unrealistic lengths of time, suggesting the likelihood of injury occurring is exceedingly small. Potential Level A harassment is therefore not considered further in this analysis.

Authorized takes from the use of active acoustic scientific sonar sources (*e.g.,* echosounders) would be by Level B harassment only, in the form of disruption of behavioral patterns for individual marine mammals resulting from exposure to the use of active acoustic sources. Based on the nature of the activity, Level A harassment is neither anticipated nor proposed to be authorized.

Generally speaking, we estimate take by considering: (1) Acoustic thresholds above which NMFS believes the best available science indicates marine mammals will be behaviorally harassed or incur some degree of permanent hearing impairment; (2) the area or volume of water that will be ensonified above these levels in a day; (3) the density or occurrence of marine mammals within these ensonified areas; and, (4) and the number of days of activities. We note that while these basic factors can contribute to a basic calculation to provide an initial prediction of takes, additional information that can qualitatively inform take estimates is also sometimes

available (*e.g.,* previous monitoring results or average group size). Below, we describe the factors considered here in more detail and present the proposed take estimate.

Acoustic Thresholds

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 be behaviorally harassed (equated to Level B harassment) or to incur PTS of some degree (equated to Level A harassment). As described in detail for NEFSC and other science centers in previously issued **Federal Register** notices (*e.g.,* 85 FR 53606, August 28, 2020; 88 FR 27028, May 6, 2020), the use of the sources used by NMFS Science Centers, including NEFSC, do not have the potential to cause Level A harassment; therefore, our discussion is limited to behavioral harassment (Level B harassment).

Level B Harassment for non-explosive sources—Though significantly driven by received level, the onset of behavioral disturbance from anthropogenic noise exposure is also informed to varying degrees by other factors related to the source (*e.g.,* frequency, predictability, duty cycle), the environment (*e.g.,* bathymetry), and the receiving animals (hearing, motivation, experience, demography, behavioral context) and can be difficult to predict (Southall *et al.,* 2007, Ellison *et al.,* 2012). Based on what the available science indicates and the practical need to use a threshold based on a factor that is both predictable and measurable for most activities, NMFS uses a generalized acoustic threshold based on received level to estimate the onset of behavioral harassment. NMFS predicts that marine mammals are likely to be behaviorally harassed in a manner we consider Level B harassment when exposed to underwater anthropogenic noise above received levels of 120 dB re 1 μPa (rms) for continuous (*e.g.,* vibratory pile-driving, drilling) and above 160 dB re 1 μPa (rms) for intermittent (*e.g.,* scientific sonar) sources. NEFSC surveys include the use of non-impulsive, intermittent sources and therefore the 160 dB re 1 μPa (rms) threshold is applicable.

The operating frequencies of active acoustic systems used by the NEFSC range from 30–333 kHz (see Table 2). Examination of these sources considers operational patterns of use relative to each other, and which sources would have the largest potential impact zone when used simultaneously. NEFSC determined that the EK60, ME70, and DSM 300 sources comprise the total effective exposures relative to line-kilometers surveyed (see Section 6.5 of the Application). Acoustic disturbance takes are calculated for these three dominant sources. Of these dominant acoustic sources, only the EK60 can use a frequency within the hearing range of baleen whales (18k Hz). Therefore, for North Atlantic right whales and all other baleen whales, Level B harassment is only expected for exposure to the EK60. The other two dominant sources are outside of their hearing range. The ADCP Ocean Surveyor operates at 75 kHz, which is outside of baleen whale hearing capabilities. Therefore, we would not expect any exposures to these signals to result in behavioral harassment in baleen whales.

The assessment paradigm for active acoustic sources used in NEFSC fisheries research is relatively straightforward and has a number of key simple and conservative assumptions. NMFS' current acoustic guidance requires in most cases that we assume Level B harassment occurs when a marine mammal receives an acoustic signal at or above a simple step-function threshold. Estimating the number of exposures at the specified received level requires several determinations, each of which is described sequentially below:

(1) A detailed characterization of the acoustic characteristics of the effective sound source or sources in operation;

(2) The operational areas exposed to levels at or above those associated with Level B harassment when these sources are in operation;

(3) A method for quantifying the resulting sound fields around these sources; and

(4) An estimate of the average density for marine mammal species in each area of operation.

Quantifying the spatial and temporal dimension of the sound exposure footprint (or ''swath width'') of the active acoustic devices in operation on moving vessels and their relationship to the average density of marine mammals enables a quantitative estimate of the number of individuals for which sound levels exceed the relevant threshold for each area. The number of potential incidents of Level B harassment is ultimately estimated as the product of the volume of water ensonified at 160 dB rms or higher and the volumetric density of animals determined from simple assumptions about their vertical stratification in the water column. Specifically, reasonable assumptions based on what is known about diving behavior across different marine mammal species were made to segregate those that predominately remain in the upper 200 m of the water column versus those that regularly dive deeper during foraging and transit. Methods for estimating each of these calculations are described in greater detail in the following sections, along with the simplifying assumptions made, and followed by the take estimates.

Sound source characteristics—An initial characterization of the general source parameters for the primary active acoustic sources operated by the NEFSC was conducted, enabling a full assessment of all sound sources used by the NEFSC. This auditing of the active acoustic sources also enabled a determination of the predominant sources that, when operated, would have sound footprints exceeding those from any other simultaneously used sources. These sources were effectively those used directly in acoustic propagation modeling to estimate the zones within which the 160 dB rms received level would occur.

Many of these sources can be operated in different modes and with different output parameters. In modeling their potential impact areas, those features among the sources identified in Table 2 (*e.g.,* lowest operating frequency) that would lead to the most precautionary estimate of maximum received level ranges (*i.e.,* largest ensonified area) were used. The effective beam patterns took into account the normal modes in which these sources are typically operated. While these signals are brief and intermittent, a conservative assumption was taken in ignoring the temporal pattern of transmitted pulses in calculating Level B harassment events. Operating characteristics of each of the predominant sound sources were used in the calculation of effective line-kilometers and area of exposure for each source in each survey.

Calculating effective line-kilometers—As described below, based on the operating parameters for each source type, an estimated volume of water ensonified at or above the 160 dB rms threshold was calculated. In all cases where multiple sources are operated simultaneously, the one with the largest estimated acoustic footprint was considered to be the effective source. Two depth zones were defined for each of the four research areas: 0–200 m and >200 m. Effective line distance and volume ensonified was calculated for each depth strata (0–200 m and >200 m), where appropriate. In some cases, this resulted in different sources being predominant in each depth stratum for all line km (*i.e.,* the total linear distance traveled during acoustic survey operations) when multiple sources were in operation. This was accounted for in estimating overall exposures for species

that utilize both depth strata (deep divers). For each ecosystem area, the total number of line km that would be surveyed was determined, as was the relative percentage of surveyed line km associated with each source. The total line-kilometers for each survey, the dominant source, the effective percentages associated with each depth, and the effective total volume ensonified are given below (Table 12).

From the sources identified in Table 2, the NEFSC identified six of the eight as having the largest potential impact zones during operations based on their relatively lower output frequency, higher output power, and operational pattern of use: EK60, ME70, DSM 300, ADCP Ocean Surveyor, Simrad EQ50, and Netmind (80 FR 39542). Further examination of these six sources considers operational patterns of use relative to each other, and which sources would have the largest potential impact zone when used simultaneously. NEFSC determined that the EK60, ME 70, and DSM 300 sources comprise the total effective exposures relative to line-kilometers surveyed acoustic disturbance takes are calculated for these three dominant sources. Of these dominant acoustic sources, only the EK 60 can use a frequency within the hearing range of baleen whales (18k Hz). Therefore, for NARW and all other baleen whales, Level B harassment is only expected for exposure to the EK60. The other two dominant sources are outside of their hearing range.

Calculating volume of water ensonified—The cross-sectional area of water ensonified to a 160 dB rms received level was calculated using a simple spherical spreading model of sound propagation loss (20 log R) such that there would be 60 dB of attenuation over 1,000 m. Spherical spreading is a reasonable assumption even in relatively shallow waters since, taking into account the beam angle, the reflected energy from the seafloor will be much weaker than the direct source and the volume influenced by the reflected acoustic energy would be much smaller over the relatively short ranges involved. We also accounted for the frequency-dependent absorption coefficient and beam pattern of these sound sources, which is generally highly directional. The lowest frequency was used for systems that are operated over a range of frequencies. The vertical extent of this area is calculated for two depth strata.

Following the determination of effective sound exposure area for transmissions considered in two dimensions (Table 11), the next step was to determine the effective volume of water ensonified at or above 160 dB rms for the entirety of each survey. For each of the three predominant sound sources, the volume of water ensonified is estimated as the athwartship cross-sectional area (in square kilometers) of sound at or above 160 dB rms multiplied by the total distance traveled by the ship. Where different sources operating simultaneously would be predominant in each different depth strata, the resulting cross-sectional area calculated took this into account. Specifically, for shallow-diving species this cross-sectional area was determined for whichever was predominant in the shallow stratum, whereas for deeper-diving species this area was calculated from the combined effects of the predominant source in the shallow stratum and the (sometimes different) source predominating in the deep stratum. This creates an effective total volume characterizing the area ensonified when each predominant source is operated and accounts for the fact that deeper-diving species may encounter a complex sound field in different portions of the water column. Volumetric densities are presented in Table 12.

TABLE 11—EFFECTIVE EXPOSURE AREAS FOR PREDOMINANT ACOUSTIC SOURCES ACROSS TWO DEPTH STRATA

Active acoustic system	Effective exposure area: Sea surface to 200 m depth (km^2)	Effective exposure area: Sea surface to depth >200 m (km^2)
EK60	0.0142	0.1411
ME70	0.0201	0.0201
DSM300	0.0004	0.0004

Marine Mammal Density

As described in the 2015 proposed rule (80 FR 39542), marine mammals were categorized into two generalized depth strata: Surface-associated (0–200 m) or deep-diving (0 to >200 m). These depth strata are based on reasonable assumptions of behavior (Reynolds III and Rommell 1999). Animals in the shallow-diving strata were assumed to spend a majority of their lives (>75 percent) at depths of 200 m or shallower. For shallow-diving species, the volumetric density is the area density divided by 0.2 km (*i.e.,* 200 m). The animal's volumetric density and exposure to sound is limited by this depth boundary.

Species in the deeper diving strata were assumed to regularly dive deeper than 200 m and spend significant time at depth. For deeper diving species, the volumetric density is calculated as the area density divided by a nominal value of 0.5 km (*i.e.,* 500 m), consistent with the approach used in the 2016 Final Rule (81 FR 53061). Where applicable, both LME and offshore volumetric densities are provided. As described in Section 6.5 of NEFSC's application, level of effort and acoustic gear types used by NEFSC differ in these areas and takes are calculated for each area (LME and offshore).

TABLE 12—MARINE MAMMAL AND VOLUMETRIC DENSITY IN THE ENSONFIED AREAS

Common name	Dive profile/vertical habitat		LME area density (per km^2) [1 2]	LME volumetric density (per km^3) [3]	Offshore ensity (per km^2) [2 4]	Offshore volumetric density (per km^3) [5]
	0–200 m	>200 m				
Cetaceans						
NARW [6]	X	.....	0.0030	0.0150	0	0
Humpback whale	X	.....	0.0016	0.00800	0	0
Fin whale	X	.....	0.0048	0.02400	0.00005	0.00025

TABLE 12—MARINE MAMMAL AND VOLUMETRIC DENSITY IN THE ENSONFIED AREAS—Continued

Common name	Dive profile/vertical habitat		LME area density (per km^2) [1 2]	LME volumetric density (per km^3) [3]	Offshore ensity (per km^2) [2 4]	Offshore volumetric density (per km^3) [5]
	0–200 m	>200 m				
Sei whale	X	.....	0.0008	0.00400	0	0
Minke whale	X	.....	0.002	0.01000	0	0
Blue whale	X	.....	0.000009	0.00005	0.000009	0.00005
Sperm whale	.....	X	0	0	0.0056	0.01120
Dwarf sperm whale	.....	X	0	0	0.005	0.01000
Pygmy sperm whale	.....	X	0	0	0.005	0.01000
Killer Whale	X	.....	0.000009	0.00005	0.000009	0.00005
Pygmy killer whale	X	.....	0.000009	0.00005	0.000009	0.00005
Northern bottlenose whale	.....	X	0	0	0.00009	0.00018
Cuvier's beaked whale	.....	X	0	0	0.0062	0.01240
Mesoplodon beaked whales	.....	X	0	0	0.0046	0.00920
Melon-headed whale	X	.....	0	0	0.0010	0.00500
Risso's dolphin	X	.....	0.0020	0.01000	0.0128	0.06400
Long-finned pilot whale	.....	X	0.0220	0.11000	0.0220	0.04400
Short-finned pilot whale	.....	X	0.0220	0.11000	0.0220	0.04400
Atlantic white-sided dolphin	X	.....	0.0453	0.22650	0	0
White-beaked dolphin	X	.....	0.00003	0.00015	0	0
Short-beaked common dolphin	X	.....	0.0891	0.44550	0	0
Atlantic spotted dolphin	X	.....	0.0013	0.00650	0.0241	0.12050
Pantropical spotted dolphin	X	.....	0	0	0.0015	0.00750
Striped dolphin	X	.....	0	0	0.0614	0.30700
Fraser's dolphin	X	.....	0	0	0.0004	0.000200
Rough toothed dolphin	X	.....	0.0005	0.00250	0.0010	0.000200
Clymene dolphin	X	.....	0.0032	0.01600	0	0
Spinner dolphin	X	.....	0	0	0.0002	0.00100
Common bottlenose dolphin offshore stock	X	.....	0	0	0.1615	0.3230
Common bottlenose dolphin coastal stocks	X	.....	0.1359	0.6795	0	0
Harbor porpoise	X	.....	0.0403	0.20150	0	0
Pinnipeds						
Harbor Seal	X	.....	0.2844	1.4220	0	0
Gray Seal	X	.....	0.0939	0.4695	0	0

[1] LME is the area in shore of the 200 m depth contour.
[2] Source: Unless otherwise stated Roberts, Best et al. (2016).
[3] LME volumetric density is the LME area density divided by 0.2 km.
[4] Offshore is the area offshore of the 200 m depth contour.
[5] Offshore volumetric density is the offshore area density divided by 0.2 km or 0.5 km for shallow or deep diving species or 0.5 km for deep diving species.
[6] Density from Roberts, Schick et al. (2020).

Using Area of Ensonification and Volumetric Density To Estimate Exposures

Estimates of potential incidents of Level B harassment (*i.e.,* potential exposure to levels of sound at or exceeding the 160 dB rms threshold) are then calculated by using (1) the combined results from output characteristics of each source and identification of the predominant sources in terms of acoustic output; (2) their relative annual usage patterns for each operational area; (3) a source-specific determination made of the area of water associated with received sounds at the extent of a depth boundary; and (4) determination of a biologically-relevant volumetric density of marine mammal species in each area. Estimates of Level B harassment by acoustic sources are the product of the volume of water ensonified at 160 dB rms or higher for the predominant sound source for each relevant survey and the volumetric density of animals for each species. Source- and stratum-specific exposure estimates are the product of these ensonified volumes and the species-specific volumetric densities (Table 12). The general take estimate equation for each source in each depth statrum is density * (ensonified volume * line kms). The humpback whale and exposure to sound from the EK 60 can be used to demonstrate the calculation:

1. EK60 ensonified volume; 0–200 m: 0.0142 km^2 * 16058.8 km = 228.03 km^3

2. Estimated exposures to sound ≥160 dB rms; humpback whale; EK60, LME region: (0.008 humpback whales/km^3 * 228.03 km^3 = 1.8 estimated humpback exposures to SPLs ≥160 dB rms resulting from use of the EK60 in the 0–200 m depth stratum.

Similar calculations were conducted for the ME 70 and DSM300 for each animal in the LME region, with the exception of baleen whales, as these sound sources are outside of their hearing range. Totals in Tables 13 and 14 represent the total take of marine mammals, by species, across all relevant surveys and sources rounded up to the nearest whole number.

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Table 13. Marine Mammal Level B Harassment Take Estimates – LME.

Common Name	Volumetric density (#/km^3)	Vertical Habitat (shallow vs. deep divers)		Estimated Acoustic Takes in 0-200 m depth stratum				Total Takes per species per year in LME	Total takes requested over the 5-year period
		0-200 m	>200 m	EK60	ME70	DSM300	Total		
Cetaceans									
NARW	0.015	X		3.4	0	0	3.4	4	**20**
Humpback whale	0.008	X		1.8	0	0	1.8	2	**10**
Fin whale	0.024	X		5.5	0	0	5.5	6	**30**
Sei whale	0.004	X		0.9	0	0	0.9	1	**5**
Minke whale	0.010	X		2.3	0	0	2.3	3	**15**
Blue whale	0.00005	X		0.01	0	0	0.01	1	**5**
Killer Whale	0.00005	X		0.01	0.033	0.009	0.053	1	**5**
Pygmy killer whale	0.00005	X		0.01	0.033	0.009	0.053	1	**5**
Risso's dolphin	0.010	X		2.3	7.4	2.0	11.7	12	**60**
Long-finned pilot whale	0.110	X	X	25.1	81.1	22.2	128.4	129	**645**
Short-finned pilot whale	0.110	X	X	25.1	81.1	22.2	128.4	129	**645**
Atlantic white-sided dolphin	0.227	X		51.6	167.1	45.7	264.4	265	**1,325**
White-beaked dolphin[1]	0.00015	X		0.034	0.111	0.030	0.175	58	**290**
Short-beaked common dolphin	0.446	X		101.6	328.6	89.8	520	520	**2,600**
Atlantic spotted dolphin	0.007	X		1.5	4.8	1.3	7.6	8	**40**
Rough toothed dolphin	0.003	X		0.6	1.8	0.5	2.9	**3**	**15**
Clymene dolphin	0.016	X		3.6	11.8	3.2	18.7	**19**	**95**
Common bottlenose dolphin[2]	0.679	X		154.9	501.2	137	793.1	**794**	**3,970**
Harbor Porpoise	0.2015	X		45.9	148.6	40.6	235.2	**236**	**1,180**
Pinnipeds									
Harbor Seal	1.422	X		324.3	1048.9	286.7	1659.8	**1660**	**8,300**
Gray Seal	0.469	X		107.1	346.3	94.7	548.02	**549**	**2,745**

[1] For the period 2016 – 2019, Level B takes for this species were reported as 29, 23, and 37 for each year, respectively. Therefore, the take request has been adjusted to account for potential groups that may occur.

[2] The NEFSC re-evaluated active acoustic survey effort after submission of their LOA application and is not requesting takes for the southern migratory stock of bottlenose dolphins as no active acoustic sources would be used in habitat overlapping with this stock.

Table 14. Marine Mammal Level B Harassment Take Estimates – Offshore.

Common Name	Volumetric density (#/km^3)	Vertical Habitat (shallow vs. deep divers)		Estimated Acoustic Takes in 0-200m depth stratum[1]			Estimated Acoustic Takes >200m depth stratum[2]	Total Takes per species Offshore	Total Takes Requested over the 5-year period
		>200 m	>200 m	EK60	ME70	Total	EK60		
Fin whale	0.00025	X		0	0.026	0.026	0	1	**5**
Blue whale	0.00005	X		0	0.005	0.005	0	1	**5**
Sperm whale	0.0112		X	0.3	1.2	1.5	2.8	5	**25**
Dwarf sperm whale	0.01		X	0.3	1.0	1.3	2.5	4	**20**
Pygmy sperm whale	0.01		X	0.3	1.0	1.3	2.5	4	**20**
Killer Whale	0.00005	X		0.001	0.005	0.006	0	1	**5**
Pygmy killer whale	0.00005	X		0.001	0.005	0.006	0	1	**5**
Northern bottlenose whale	0.00018		X	0.01	0.02	0.02	0.05	1	**5**
Cuvier's beaked whale	0.0124		X	0.3	1.3	1.6	3.1	5	**25**
Mesoplodon beaked whales	0.0092		X	0.3	1.0	1.2	2.3	4	**20**
Melon-headed whale	0.005	X		0.1	0.5	0.7	0	1	**5**
Risso's dolphin	0.064	X		1.8	6.6	8.4	0	9	**45**
Long-finned pilot whale	0.044		X	1.2	4.6	5.8	11.1	17	**85**
Short-finned pilot whale	0.044		X	1.2	4.6	5.8	11.1	17	**85**
Atlantic spotted dolphin	0.1205	X		3.4	12.5	15.9	0	16	**80**
Pantropical spotted dolphin	0.0075	X		0.2	0.8	1.0	0	1	**5**
Striped dolphin	0.307	X		8.7	31.8	40.4	0	41	**205**
Fraser's dolphin	0.002	X		0.1	0.2	0.3	0	1	**5**
Rough toothed dolphin	0.005	X		0.14	0.52	0.66	0	1	**5**
Spinner dolphin	0.001	X		0.0	0.1	0.1	0	1	**5**
Common bottlenose dolphin[3]	0.3230	X		9.1	33.4	42.5	0	43	**215**

[1]DSM300 not used in offshore surveys.
[2]Only EK60 used for the >200 m depth stratum.
[3]Offshore stock.

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Estimated Take Due to Physical Disturbance

Estimated take due to physical disturbance could potentially occur in the Penobscot River Estuary as a result of the unintentional approach of NEFSC vessels to pinnipeds hauled out on ledges.

The NEFSC uses three gear types (fyke nets, rotary screw traps, and Mamou shrimp trawl) to monitor fish communities in the Penobscot River Estuary. The NEFSC conducts the annual surveys over specific sampling periods which could use any gear type: Mamou trawling is conducted year-round; fyke net surveys are conducted

April–November; and rotary screw trap surveys from April–June.

We anticipate that trawl and fyke net surveys may disturb harbor seals and gray seals hauled out on tidal ledges through physical presence of researchers. The NEFSC conducts these surveys in upper Penobscot Bay above Fort Point Ledge where there is only one minor seal ledge (Odum Ledge) used by approximately 50 harbor seals (*i.e.,* based on a June 2001 survey). In 2017, only 20 seals were observed in the water during the Penobscot Bay surveys (NEFSC 2018) as described below. Although one cannot assume that the number of seals using this region is stable over the April–November survey period; use of this area by seals likely lower in spring and autumn.

There were no observations of gray seals in the 2001 survey, but recent anecdotal information suggests that a few gray seals may share the haulout site. These fisheries research activities do not entail intentional approaches to seals on ledges (*i.e.,* boats avoid close approach to tidal ledges and no gear is deployed near the tidal ledges); only behavioral disturbance incidental to small boat activities is anticipated. It is likely that some pinnipeds on the ledges would move or flush from the haulout into the water in response to the presence or sound of NEFSC survey vessels. Behavioral responses may be considered according to the scale shown in Table 15. We consider responses corresponding to Levels 2–3 to constitute Level B harassment.

TABLE 15—SEAL RESPONSE TO DISTURBANCE

Level	Type of response	Definition
1	Alert	Seal head orientation or brief movement in response to disturbance, which may include turning head towards the disturbance, craning head and neck while holding the body rigid in a u-shaped position, changing from a lying to a sitting position, or brief movement of less than twice the animal's body length.
2	Movement	Movements in response to the source of disturbance, ranging from short withdrawals at least twice the animal's body length to longer retreats over the beach, or if already moving a change of direction of greater than 90 degrees.
3	Flush	All retreats (flushes) to the water.

Only two research projects would involve the physical presence of researchers that may result in Level B incidental harassment of pinnipeds on haulouts. These surveys would occur in Penobscot Bay. Seals observed by NEFSC researchers on haulouts and in adjacent waters from 2017 through 2020 are presented in Table 16. The 2016 final rule (81 FR 53061) estimated that all hauled out seals could be disturbed by passing research skiffs. This was a conservative assumption given that only 20 seals were observed in the water during the actual 2017 Penobscot Bay surveys (NEFSC 2018b), and researchers have estimated that only about 10 percent of hauled out seals had been visibly disturbed in the past (NMFS 2016). Thus, for this proposed rule, it is assumed that 10 percent of the animals hauled out could be flushed into the water and taken. The resulting requested take is estimated based on the number of days per year the activity might take place, times the number of seals potentially affected (10 percent of the number hauled). Table 17 provides the estimated annual and 5-year takes of harbor and gray seals due to behavioral harassment during surveys in the lower estuary of the Penobscot River.

TABLE 16—SEALS OBSERVED IN PENOBSCOT BAY DURING HYDROACOUSTIC SURVEYS FROM 2017–2020

Species	2017		2018		2019	
	Count on haulout	Count in water	Count on haulout	Count in water	Count on haulout	Count in water
Harbor seals	242	65	401	52	330	50
Gray seals	2	17	11	2	33	29

TABLE 17—ESTIMATED TAKE, BY LEVEL B HARASSMENT, OF PINNIPEDS DURING PENOBSCOT RIVER SURVEYS

Common name	Estimated number of seals hauled out1	Estimated number of seals potentially disturbed per day2	Estimated annual instances of harassment			5-Year total harassment takes requested all gears
			Fyke net 100 DAS	Mamou shrimp trawl 12 DAS	Total	
Harbor seals	400	40	4,000	480	4,480	22,400
Gray seals	30	3	300	36	336	1,680

Summary of Estimated Incidental Take

Here we provide summary tables detailing the total proposed incidental take authorization on an annual basis for the NEFSC in the Atlantic coast region, as well as other information relevant to the negligible impact analyses.

TABLE 18—TOTAL PROPOSED M/SI AND LEVEL B HARASSMENT OVER 5 YEARS
[2021–2026]

Common name	5-Year total M/SI proposed take authorization	Annual Level B take			Total 5-yr Level B take 2021–2026
		LME	Offshore	Total (% of population)	
NARW	0	4	0	4 (<1)	20
Humpback whale	0	2	0	2 (<1)	10
Fin whale	0	6	1	7 (<1)	35
Sei whale	0	1	0	1 (<1)	5
Minke whale	5	3	0	3 (<1)	15
Blue whale	0	1	1	2 (<1)	10
Sperm whale	0	0	5	5 (<1)	25
Dwarf sperm whale	0	0	4	4 (<1)	20
Pygmy sperm whale	0	0	4	4 (<1)	20
Killer Whale	0	1	1	2 (<1)	10
Pygmy killer whale	0	1	1	2 (<1)	10
Northern bottlenose whale	0	0	1	1 (<1)	5
Cuvier's beaked whale	0	0	5	5 (<1)	25
Mesoplodon beaked whale	0	0	4	4 (<1)	20
Melon-headed whale	0	0	1	1 (<1)	5
Risso's dolphin	3	12	9	21 (<1)	105
Long-finned pilot whale	0	129	17	146 (<1)	730
Short-finned pilot whale	0	129	17	146 (<1)	730
Atlantic white-sided dolphin	3	265	0	281 (<1)	1,325
White-beaked common dolphin	2	1	0	1 (<1)	5
Short-beaked common dolphin	7	520	0	520 (<1)	2,600
Atlantic spotted dolphin	2	8	16	24 (<1)	120
Pantropical spotted dolphin	0	0	1	1 (<1)	5
Striped dolphin	0	0	41	41 (<1)	205
Fraser's dolphin	0	0	1	1 (<1)	5
Rough toothed dolphin	0	3	1	4 (3)	20
Clymene dolphin	0	19	0	19 (<1)	95
Spinner dolphin	0	0	5	5 (<1)	25
Bottlenose dolphin[1]	[1] 16	794	43	837 (12)	4,185
Harbor Porpoise	7	236	0	236 (<1)	1,180
Harbor seals[2]	15	1,660 4,480	0	6,140 (8.1)	30,700
Gray seals[2]	15	549 336	0	885 (3.2)	4,425

[1] Eight M/SI takes each from the offshore and northern migratory coastal stocks, over the 5-year period.
[2] For Level B takes, the first number is disturbance due to acoustic sources, the second is physical disturbance due to surveys in Penobscot Bay.

Proposed Mitigation

In order to issue an IHA under section 101(a)(5)(D) of the MMPA, NMFS must set forth the permissible methods of taking pursuant to the activity, and other means of effecting the least practicable impact on the species or stock and its habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance, and on the availability of the species or stock for taking for certain subsistence uses (latter not applicable for this action). NMFS regulations require applicants for incidental take authorizations to include information about the availability and feasibility (economic and technological) of equipment, methods, and manner of conducting the activity or other means of effecting the least practicable adverse impact upon the affected species or stocks and their habitat (50 CFR 216.104(a)(11)).

In evaluating how mitigation may or may not be appropriate to ensure the least practicable adverse impact on species or stocks and their habitat, as well as subsistence uses where applicable, we carefully consider two primary factors:

(1) The manner in which, and the degree to which, the successful implementation of the measure(s) is expected to reduce impacts to marine mammals, marine mammal species or stocks, and their habitat. This considers the nature of the potential adverse impact being mitigated (likelihood, scope, range). It further considers the likelihood that the measure will be effective if implemented (probability of accomplishing the mitigating result if implemented as planned), the likelihood of effective implementation (probability implemented as planned); and

(2) The practicability of the measures for applicant implementation, which may consider such things as cost, impact on operations, and, in the case of a military readiness activity, personnel safety, practicality of implementation, and impact on the effectiveness of the military readiness activity.

Mitigation for Marine Mammals and Their Habitat

The NEFSC has invested significant time and effort in identifying technologies, practices, and equipment to minimize the impact of the proposed activities on marine mammal species and stocks and their habitat. The mitigation measures discussed here have been determined to be both effective and practicable and, in some cases, have already been implemented by the NEFSC. In addition, while not currently being investigated, any future

potentially effective and practicable gear modification mitigation measures are part of the adaptive management strategy included in this rule.

General Measures

Visual Monitoring—Effective monitoring is a key step in implementing mitigation measures and is achieved through regular marine mammal watches. Marine mammal watches are a standard part of conducting NEFSC fisheries research activities, particularly those activities that use gears that are known to or potentially interact with marine mammals. Marine mammal watches and monitoring occur during daylight hours prior to deployment of gear (*e.g.,* trawls, longline gear), and they continue until gear is brought back on board. If marine mammals are sighted in the area within 15 minutes prior to deployment of gear and are considered to be at risk of interaction with the research gear, then the sampling station is either moved or canceled or the activity is suspended until there are no sightings for 15 minutes within 1nm of sampling location. On smaller vessels, the Chief Scientist (CS) and the vessel operator are typically those looking for marine mammals and other protected species. When marine mammal researchers are on board (distinct from marine mammal observers dedicated to monitoring for potential gear interactions), they will record the estimated species and numbers of animals present and their behavior. If marine mammal researchers are not on board or available, then the CS in cooperation with the vessel operator will monitor for marine mammals and provide training as practical to bridge crew and other crew to observe and record such information.

Coordination and Communication—When NEFSC survey effort is conducted aboard NOAA-owned vessels, there are both vessel officers and crew and a scientific party. Vessel officers and crew are not composed of NEFSC staff but are employees of NOAA's Office of Marine and Aviation Operations (OMAO), which is responsible for the management and operation of NOAA fleet ships and aircraft and is composed of uniformed officers of the NOAA Commissioned Corps as well as civilians. The ship's officers and crew provide mission support and assistance to embarked scientists, and the vessel's Commanding Officer (CO) has ultimate responsibility for vessel and passenger safety and, therefore, decision authority regarding the implementation of mitigation measures. When NEFSC survey effort is conducted aboard cooperative platforms (*i.e.,* non-NOAA vessels), ultimate responsibility and decision authority again rests with non-NEFSC personnel (*i.e.,* vessel's master or captain). Although the discussion throughout this Rule does not always explicitly reference those with decision-making authority from cooperative platforms, all mitigation measures apply with equal force to non-NOAA vessels and personnel as they do to NOAA vessels and personnel. Decision authority includes the implementation of mitigation measures (*e.g.,* whether to stop deployment of trawl gear upon observation of marine mammals). The scientific party involved in any NEFSC survey effort is composed, in part or whole, of NEFSC staff and is led by a CS. Therefore, because the NEFSC—not OMAO or any other entity that may have authority over survey platforms used by NEFSC—is the applicant to whom any incidental take authorization issued under the authority of these proposed regulations would be issued, we require that the NEFSC take all necessary measures to coordinate and communicate in advance of each specific survey with OMAO, or other relevant parties, to ensure that all mitigation measures and monitoring requirements described herein, as well as the specific manner of implementation and relevant event-contingent decision-making processes, are clearly understood and agreed-upon. This may involve description of all required measures when submitting cruise instructions to OMAO or when completing contracts with external entities. NEFSC will coordinate and conduct briefings at the outset of each survey and as necessary between the ship's crew (CO/master or designee(s), as appropriate) and scientific party in order to explain responsibilities, communication procedures, marine mammal monitoring protocol, and operational procedures. The CS will be responsible for coordination with the Officer on Deck (OOD; or equivalent on non-NOAA platforms) to ensure that requirements, procedures, and decision-making processes are understood and properly implemented.

The NEFSC will coordinate with the local Northeast Regional Stranding Coordinator and the NMFS Stranding Coordinator for any unusual protected species behavior and any stranding, beached live/dead, or floating protected species that are encountered during field research activities. If a large whale is alive and entangled in fishing gear, the vessel will immediately call the U.S. Coast Guard at VHF Ch. 16 and/or the appropriate Marine Mammal Health and Stranding Response Network for instructions. All entanglements (live or dead) and vessel strikes must be reported immediately to the NOAA Fisheries Marine Mammal Stranding Hotline at 888–755–6622. In addition, any entanglement or vessel strike must be reported to the NMFS Protected Species Incidental Take database (PSIT) within 48 hours of the event happening (see Proposed Monitoring and Reporting).

Vessel Speed Limits and Course Alteration

When NEFSC research vessels are actively sampling, cruise speeds are less than 5 kts, typically 2–4 kts, a speed at which the probability of collision and serious injury of large whales is *de minimus.* However, transit speed between active sampling stations will range from 10–12 kts, except in areas where vessel speeds are regulated to lower speeds.

On 9 December 2013, NMFS published a ''Final rule to remove sunset provision of the Final Rule Implementing Vessel Speed Restrictions to Reduce the Threat of Ship Collisions with NARWs'' (78 FR 73726). The 2013 final rule continued the vessel speed restrictions to reduce the threat of ship collisions with NARWs that were originally published in a final rule on 10 October 2008 (73 FR 60173). The rule requires that vessels 65 feet and greater in length travel at 10 knots or less near key port entrances and in certain areas of right whale aggregation along the U.S. eastern seaboard, known as ''Seasonal Management Areas''. The spatial and temporal locations of SMAs from Maine to Florida can be found at: *https://www.fisheries.noaa.gov/national/endangered-species-conservation/reducing-vessel-strikes-north-atlantic-right-whales#vessel-speed-restrictions.* In addition, Right Whale Slow Zones is a program that notifies vessel operators of areas where maintaining speeds of 10 knots or less can help protect right whales from vessel collisions. Under this program, NOAA Fisheries provides maps and coordinates to vessel operators indicating areas where right whales have been detected. Mariners are encouraged to avoid these areas or reduce speeds to 10 knots or less while transiting through these areas for 15 days. Right Whale Slow Zones are established around areas where right whales have been recently seen or heard. These areas are identical to Dynamic Management Areas (DMA) when triggered by right whale visual sightings, but they will also be established when right whale detections are confirmed from acoustic receivers. All NEFSC vessels over 65 ft will abide

by all speed and course restrictions in SMAs and DMAs. Prior to and during research surveys, NEFSC will maintain awareness if right whales have been detected in transit or fishing areas.

Handling Procedures

Handling procedures are those taken to return a live animal to the sea or process a dead animal. The NEFSC will implement a number of handling protocols to minimize potential harm to marine mammals that are incidentally taken during the course of fisheries research activities. In general, protocols have already been prepared for use on commercial fishing vessels. Although commercial fisheries take larger quantities of marine mammals than fisheries research, the nature of such takes by entanglement or capture are similar. Therefore, the NEFSC would adopt commercial fishery disentanglement and release protocols (summarized below), which should increase post-release survival. Handling or disentangling marine mammals carries inherent safety risks, and using best professional judgment and ensuring human safety is paramount.

Captured or entangled live or injured marine mammals are released from research gear and returned to the water as soon as possible with no gear or as little gear remaining on the animal as possible. Animals are released without removing them from the water if possible, and data collection is conducted in such a manner as not to delay release of the animal(s) or endanger the crew. NEFSC is responsible for training NEFSC and partner affiliates on how to identify different species; handle and bring marine mammals aboard a vessel; assess the level of consciousness; remove fishing gear; and return marine mammals to water. Human safety is always the paramount concern.

Move-On Rule

For all research surveys using gear that has the potential to hook or entangle a marine mammal, the NEFSC must implement move-on rule mitigation protocol upon observation of any marine mammal other than dolphins and porpoises attracted to the vessel (see specific gear types below for marine mammal monitoring details). Specifically, if one or more marine mammals (other than dolphins and porpoises) are observed near the sampling area 15 minutes prior to setting gear and are considered at risk of interacting with the vessel or research gear, or appear to be approaching the vessel and are considered at risk of interaction, NEFSC must either remain onsite or move on to another sampling location. If remaining onsite, the set must be delayed until the animal(s) depart or appear to no longer be at risk of interacting with the vessel or gear. If gear deployment or retrieval is suspended due to protected species presence, resume only after there are no sightings for 15 minutes within 1nm of sampling location. At such time, the NEFSC may deploy gear. The NEFSC must use best professional judgment, in making decisions related to deploying gear.

Trawl Surveys (Beam, Mid-Water, and Bottom Trawls)

The NEFSC deploys trawl nets in all layers of the water column. For all beam, mid-water, and bottom trawl, the NEFSC will initiate visual observation for protected species no less than 15 minutes prior to gear deployment. NEFSC will scan the surrounding waters with the naked eye and rangefinding binoculars and will continue visual monitoring while gear is deployed. During nighttime operations, NEFSC will observe with the naked eye and any available vessel lighting. If protected species are sighted within 15 minutes before setting gear, the OOD may determine whether to implement the ''move-on'' rule and transit to a different section of the sampling area. Trawl gear will not be deployed if protected species are sighted near the ship unless there is no risk of interaction as determined by the OOD or CS. If, after moving on, protected species are still visible from the vessel and appear at risk, the OOD may decide to move again, skip the station, or wait until the marine mammal(s) leave the area and/or are considered no longer at risk. If gear deployment or retrieval is suspended due to protected species presence, fishing may commence after there are no sightings for 15 minutes within 1nm of sampling location. If deploying bongo plankton or other small net prior to trawl gear, NEFSC will continue visual observations until trawl gear is ready to be deployed.

NEFSC trawl surveys will follow the standard tow durations of no more than 30 minutes at target depth for distances less than 3 nautical miles (nm). The exceptions to the 30-minute tow duration are the Atlantic Herring Acoustic Pelagic Trawl Survey and the Deepwater Biodiversity Survey where total time in the water (deployment, fishing, and haul-back) is 40 to 60 minutes and 180 minutes, respectively. Trawl tow distances will be not more than 3 nmi to reduce the likelihood of incidentally taking marine mammals. Typical tow distances are 1–2 nmi, depending on the survey and trawl speed. Bottom trawl tows will be made in either straight lines or following depth contours, whereas other tows targeting fish aggregations and deep-water biodiversity tows may be made along oceanographic or bathymetric features. In all cases, sharp course changes will be avoided in all surveys.

In many cases, trawl operations will be the first activity undertaken upon arrival at a new station, in order to reduce the opportunity to attract marine mammals to the vessel. However, in some cases it will be necessary to conduct plankton tows prior to deploying trawl gear in order to avoid trawling through extremely high densities of jellies and similar taxa that are numerous enough to severely damage trawl gear.

Once the trawl net is in the water, observations will continue around the vessel to maintain a lookout for the presence of marine mammals. If marine mammals are sighted before the gear is fully retrieved, resume only after there are no sightings for 15 minutes within 1 nmi of the sampling location. The OOD may also use the most appropriate response to avoid incidental take in consultation with the CS and other experienced crew as necessary. This judgment will be based on his/her past experience operating gears around marine mammals and NEFSC training sessions that will facilitate dissemination of Chief Scientist. Captain expertise operating in these situations (*e.g.,* factors that contribute to marine mammal gear interactions and those that aid in successfully avoiding these events). These judgments take into consideration the species, numbers, and behavior of the animals, the status of the trawl net operation (net opening, depth, and distance from the stern), the time it would take to retrieve the net, and safety considerations for changing speed or course. For instance, a whale transiting through the area off in the distance might only require a short move from the designated station while a pod of dolphins gathered around the vessel may require a longer move from the station or possibly cancellation if they follow the vessel. It may sometimes be safer to continue trawling until the marine mammals have lost interest or transited through the area before beginning haulback operations. In other situations, swift retrieval of the net may be the best course of action. If trawling is delayed because of protected species presence, trawl operations only resume when the animals have no longer been sighted or are no longer at risk. In any case, no gear will be deployed if marine mammals or other protected species

have been sighted that may be a risk of interaction with gear. Gear will be retrieved immediately if marine mammals are believed to be at risk of entanglement or observed as being entangled.

The acoustical cues generated during haulback may attract marine mammals. The NEFSC will continue monitoring for the presence of marine mammals during haulback. Care will be taken when emptying the trawl to avoid damage to any marine mammals that may be caught in the gear but are not visible upon retrieval. NEFSC will open the codend of the net close to the deck/sorting area to avoid damage to animals that may be caught in gear. The gear will be emptied as quickly as possible after retrieval in order to determine whether or not marine mammals, or any other protected species, are present.

Gillnet Surveys

The NEFSC will limit gillnet soak times to the least amount of time required to conduct sampling. Gillnet research will only be conducted during daylight hours. NEFSC will conduct marine mammal monitoring beginning 15 minutes prior to deploying the gear and continue until gear is back on deck. For the COASTSPAN gillnet surveys, NEFSC must actively monitor for potential bottlenose dolphin entanglements by hand-checking the gillnet every 30 minutes or if a disturbance in the net is observed (even if marine mammals are not observed).

NEFSC will pull gear immediately if disturbance in the nets is observed. All gillnets will be designed with minimal net slack and excess floating and trailing lines will be removed. NEFSC will set only new of fully repaired gill nets thereby eliminating holes, and modify nets to avoid large vertical gaps between float line and net as well as lead line and net when set. If a marine mammal is sighted during approach to a station or prior to deploying gear, nets would not be deployed until the animal has left the area, is on a path away from where the net would be set, or has not been re-sighted within 15 minutes. Alternatively, the research team may move the vessel to an area clear of marine mammals. If the vessel moves, the 15 minute observation period is repeated. Monitoring by all available crew would continue while the net is being deployed, during the soak, and during haulback.

If protected species are not sighted during the 15 minute observation period, the gear may be set. Waters surrounding the net and the net itself would be continuously monitored during the soak. If protected species are sighted during the soak and appear to be at risk of interaction with the gear, then the gear is pulled immediately. If fishing operations are halted, operations resume when animal(s) have not been sighted within 15 minutes or are determined to no longer be at risk. In other instances, the station is moved or cancelled. If any disturbance in the gear is observed in the gear, the net will be immediately checked or pulled.

The NEFSC will clean gear prior and during deployment. The catch will be emptied as quickly as possible. On Observer Training cruises, acoustic pingers and weak links are used on all gillnets consistent with the regulations and TRPs for commercial fisheries. All NEFOP protocols are followed as per current NEFOP Observer Manual.

Longline Surveys

Similar to other surveys, NEFSC will deploy longline gear as soon as practicable upon arrival on station. They will initiate visual observations for marine mammals no less than 15 minutes prior to deployment and continue until gear is back on deck. Observers will scan surrounding waters with the naked eye and binoculars (or monocular). Monitoring, albeit limited visibility, will occur during nighttime surveys using the naked eye and available vessel lighting. If marine mammals are sighted within 1nmi of the station within 15 minutes before setting gear, NEFSC will suspend gear deployment until the animals have moved on a path away from the station or implement the move-on rule. If gear deployment or retrieval is suspended due to presence of marine mammals, resume operations only after there are no sightings for at least 15 minutes within 1nmi of sampling location. In no case will longlines be deployed if animals are considered at-risk of interaction. When visibility allows, the OOD, CS, and crew standing watch will conduct set checks every 15 minutes to look for hooked, trapped, or entangled marine mammals. In addition, chumming is prohibited.

Fyke Net Surveys

NEFSC will conduct monitoring of marine mammals 15 minutes prior to setting gear and continue until gear is back on deck. If marine mammals are observed within 100 m of the station, NEFSC will delay setting the gear until the marine mammal(s) has moved past and on a path away from the station or implement the move-on rule. Similar to other gear measures, fyke nets will not be deployed in the animal(s) is deemed at-risk of interaction. If marine mammals are observed during sampling, gear will be pulled if the marine mammals is deemed at-risk of interacting with the gear. NEFSC will conduct monitoring and retrieval of gear every 12 to 24 hour soak period.

Fyke nets equal or greater to 2 m will be fitted with a marine mammal excluder device. The exclusion device consists of a grate the dimensions of which were based on exclusion devices on Penobscot Hydroelectric fishway facilities that are four to six inches and allow for passage of numerous target species including river herring, eels, striped bass, and adult salmon. The 1-m fyke net does not require an excluder device as the opening is 12 cm. These small openings will prevent marine mammals from entering the nets.

Pot/Trap Surveys

All pot/trap surveys will implement that same mitigation as described for longline surveys.

Dredge Surveys

For all scallop and hydraulic clam dredges, the OOD, CS or others will scan for marine mammals for 15 minutes prior to deploying gear. If marine mammals are observed within 1 km of the station, NEFSC will delay setting the gear until the marine mammal(s) has moved past and on a path away from the station or implement the move-on rule or the OOD or CS may implement the move-on rule. Dredge gear will not be deployed in the marine mammal is considered at-risk of interaction.

Sampling will be conducted upon arrival at the station and continue until gear is back on deck. Similar to trawl gear, care will be taken when emptying the nets to avoid damage to any marine mammals that may be caught in the gear but are not visible upon retrieval. NEFSC will empty the net close to the deck/sorting area to avoid damage to marine mammals that may be caught in gear. The gear will be emptied as quickly as possible after retrieval in order to determine whether or not marine mammals are present.

Based on our evaluation of the applicant's proposed measures, NMFS has preliminarily determined that the proposed mitigation measures provide the means effecting the least practicable impact on the affected species or stocks and their habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance.

Proposed Monitoring and Reporting

In order to issue an IHA for an activity, section 101(a)(5)(D) of the MMPA states that NMFS must set forth requirements pertaining to the

monitoring and reporting of such taking. The MMPA implementing regulations at 50 CFR 216.104(a)(13) indicate that requests for authorizations must include the suggested means of accomplishing the necessary monitoring and reporting that will result in increased knowledge of the species and of the level of taking or impacts on populations of marine mammals that are expected to be present in the proposed action area. Effective reporting is critical both to compliance as well as ensuring that the most value is obtained from the required monitoring.

Monitoring and reporting requirements prescribed by NMFS should contribute to improved understanding of one or more of the following:

- Occurrence of marine mammal species or stocks in the area in which take is anticipated (*e.g.,* presence, abundance, distribution, density);
- Nature, scope, or context of likely marine mammal exposure to potential stressors/impacts (individual or cumulative, acute or chronic), through better understanding of: (1) Action or environment (*e.g.,* source characterization, propagation, ambient noise); (2) affected species (*e.g.,* life history, dive patterns); (3) co-occurrence of marine mammal species with the action; or (4) biological or behavioral context of exposure (*e.g.,* age, calving or feeding areas);
- Individual marine mammal responses (behavioral or physiological) to acoustic stressors (acute, chronic, or cumulative), other stressors, or cumulative impacts from multiple stressors;
- How anticipated responses to stressors impact either: (1) Long-term fitness and survival of individual marine mammals; or (2) populations, species, or stocks;
- Effects on marine mammal habitat (*e.g.,* marine mammal prey species, acoustic habitat, or other important physical components of marine mammal habitat); and
- Mitigation and monitoring effectiveness.

NEFSC must designate a compliance coordinator who must be responsible for ensuring compliance with all requirements of any LOA issued pursuant to these regulations and for preparing for any subsequent request(s) for incidental take authorization.

Since the 2016 final rule, NEFSC has made its training, operations, data collection, animal handling, and sampling protocols more systematic in order to improve its ability to understand how mitigation measures influence interaction rates and ensure its research operations are conducted in an informed manner and consistent with lessons learned from those with experience operating these gears in close proximity to marine mammals. In addition, NMFS has established a formal incidental take reporting system, the PSIT database, requiring that incidental takes of protected species be reported within 48 hours of the occurrence. The PSIT generates automated messages to agency leadership and other relevant staff and alerts them to the event and that updated information describing the circumstances of the event have been inputted into the database. It is in this spirit that we propose the monitoring requirements described below.

Visual Monitoring

Marine mammal watches are a standard part of conducting fisheries research activities and are implemented as described previously in ''Proposed Mitigation.'' Dedicated marine mammal visual monitoring occurs as described (1) for some period prior to deployment of most research gear; (2) throughout deployment and active fishing of all research gears; (3) for some period prior to retrieval of longline gear; and (4) throughout retrieval of all research gear. This visual monitoring is performed by trained NEFSC personnel or other trained crew during the monitoring period. Observers record the species and estimated number of animals present and their behaviors. This may provide valuable information towards an understanding of whether certain species may be attracted to vessels or certain survey gears. Separately, personnel on watch (those navigating the vessel and other crew; these will typically not be NEFSC personnel) monitor for marine mammals at all times when the vessel is being operated. The primary focus for this type of watch is to avoid striking marine mammals and to generally avoid navigational hazards. These personnel on watch typically have other duties associated with navigation and other vessel operations and are not required to record or report to the scientific party data on marine mammal sightings, except when gear is being deployed, soaking, or retrieved or when marine mammals are observed in the path of the ship during transit.

NEFSC will also monitor disturbance of hauled out pinnipeds resulting from the presence of researchers, paying particular attention to the distance at which pinnipeds are disturbed. Disturbance will be recorded according to the three-point scale, representing increasing seal response to disturbance, as shown in Table 15.

Training

NMFS considers the proposed suite of monitoring and operational procedures to be necessary to avoid adverse interactions with protected species and still allow NEFSC to fulfill its scientific missions. However, some mitigation measures such as the move-on rule require judgments about the risk of gear interactions with protected species and the best procedures for minimizing that risk on a case-by-case basis. Vessel operators and Chief Scientists are charged with making those judgments at sea. They are all highly experienced professionals but there may be inconsistencies across the range of research surveys conducted and funded by NEFSC in how those judgments are made. In addition, some of the mitigation measures described above could also be considered ''best practices'' for safe seamanship and avoidance of hazards during fishing (*e.g.,* prior surveillance of a sample site before setting trawl gear). At least for some of the research activities considered, explicit links between the implementation of these best practices and their usefulness as mitigation measures for avoidance of protected species may not have been formalized and clearly communicated with all scientific parties and vessel operators. NMFS therefore proposes a series of improvements to NEFSC protected species training, awareness, and reporting procedures. NMFS expects these new procedures will facilitate and improve the implementation of the mitigation measures described above.

NEFSC will continue to use the process for its Chief Scientists and vessel operators to communicate with each other about their experiences with marine mammal interactions during research work with the goal of improving decision-making regarding avoidance of adverse interactions. As noted above, there are many situations where professional judgment is used to decide the best course of action for avoiding marine mammal interactions before and during the time research gear is in the water. The intent of this mitigation measure is to draw on the collective experience of people who have been making those decisions, provide a forum for the exchange of information about what went right and what went wrong, and try to determine if there are any rules-of-thumb or key factors to consider that would help in future decisions regarding avoidance practices. NEFSC would coordinate not only among its staff and vessel captains

but also with those from other fisheries science centers and institutions with similar experience.

NEFSC would also continue utilizing the formalized marine mammal training program required for all NEFSC research projects and for all crew members that may be posted on monitoring duty or handle incidentally caught marine mammals. Training programs would be conducted on a regular basis and would include topics such as monitoring and sighting protocols, species identification, decision-making factors for avoiding take, procedures for handling and documenting marine mammals caught in research gear, and reporting requirements. The Observer Program currently provides protected species training (and other types of training) for NMFS-certified observers placed on board commercial fishing vessels. NEFSC Chief Scientists and appropriate members of NEFSC research crews will be trained using similar monitoring, data collection, and reporting protocols for marine mammal as is required by the Observer Program. All NEFSC research crew members that may be assigned to monitor for the presence of marine mammals during future surveys will be required to attend an initial training course and refresher courses annually or as necessary. The implementation of this training program would formalize and standardize the information provided to all research crew that might experience marine mammal interactions during research activities.

For all NEFSC research projects and vessels, written cruise instructions and protocols for avoiding adverse interactions with marine mammals will be reviewed and, if found insufficient, made fully consistent with the Observer Program training materials and any guidance on decision-making that arises out of the two training opportunities described above. In addition, informational placards and reporting procedures will be reviewed and updated as necessary for consistency and accuracy. All NEFSC research cruises already include pre-sail review of marine mammal protocols for affected crew but NEFSC will also review its briefing instructions for consistency and accuracy.

NEFSC will continue to coordinate with the Greater Atlantic Regional Fisheries Office (GARFO), NEFSC fishery scientists, NOAA research vessel personnel, and other NMFS staff as appropriate to review data collection, marine mammal interactions, and refine data collection and mitigation protocols, as required. NEFSC will also coordinate with NMFS' Office of Science and Technology to ensure training and guidance related to handling procedures and data collection is consistent with other fishery science centers, where appropriate.

Reporting

NMFS has established a formal incidental take reporting system, the Protected Species Incidental Take (PSIT) database, requiring that incidental takes of protected species be reported within 48 hours of the occurrence. The PSIT generates automated messages to NMFS leadership and other relevant staff, alerting them to the event and to the fact that updated information describing the circumstances of the event has been inputted to the database. The PSIT and CS reports represent not only valuable real-time reporting and information dissemination tools but also serve as an archive of information that may be mined in the future to study why takes occur by species, gear, region, etc. The NEFSC is required to report all takes of protected species, including marine mammals, to this database within 48 hours of the occurrence and following standard protocol.

In the unanticipated event that NEFSC fisheries research activities clearly cause the take of a marine mammal in a prohibited manner, NEFSC personnel engaged in the research activity must immediately cease such activity until such time as an appropriate decision regarding activity continuation can be made by the NEFSC Director (or designee). The incident must be reported immediately to OPR and the NMFS GARFO. OPR will review the circumstances of the prohibited take and work with NEFSC to determine what measures are necessary to minimize the likelihood of further prohibited take and ensure MMPA compliance. The immediate decision made by NEFSC regarding continuation of the specified activity is subject to OPR concurrence. The report must include the following information:

(i) Time, date, and location (latitude/longitude) of the incident;

(ii) Description of the incident including, but not limited to, monitoring prior to and occurring at time of the incident;

(iii) Environmental conditions (*e.g.,* wind speed and direction, Beaufort sea state, cloud cover, visibility);

(iv) Description of all marine mammal observations in the 24 hours preceding the incident;

(v) Species identification or description of the animal(s) involved;

(vi) Status of all sound source use in the 24 hours preceding the incident;

(vii) Water depth;

(viii) Fate of the animal(s) (*e.g.* dead, injured but alive, injured and moving, blood or tissue observed in the water, status unknown, disappeared, etc.); and

(ix) Photographs or video footage of the animal(s).

In the event that NEFSC discovers an injured or dead marine mammal and determines that the cause of the injury or death is unknown and the death is relatively recent (*e.g.,* in less than a moderate state of decomposition), NEFSC must immediately report the incident to OPR and the NMFS GARFO. The report must include the information identified above. Activities may continue while OPR reviews the circumstances of the incident. OPR will work with NEFSC to determine whether additional mitigation measures or modifications to the activities are appropriate.

In the event that NEFSC discovers an injured or dead marine mammal and determines that the injury or death is not associated with or related to NEFSC fisheries research activities (*e.g.,* previously wounded animal, carcass with moderate to advanced decomposition, scavenger damage), NEFSC must report the incident to OPR and GARFO, NMFS, within 24 hours of the discovery. NEFSC must provide photographs or video footage or other documentation of the stranded animal sighting to OPR.

In the event of a ship strike of a marine mammal by any NEFSC or partner vessel involved in the activities covered by the authorization, NEFSC or partner must immediately report the information described above, as well as the following additional information:

(i) Vessel's speed during and leading up to the incident;

(ii) Vessel's course/heading and what operations were being conducted;,

(iii) Status of all sound sources in use;

(iv) Description of avoidance measures/requirements that were in place at the time of the strike and what additional measures were taken, if any, to avoid strike;

(v) Estimated size and length of animal that was struck; and

(vi) Description of the behavior of the marine mammal immediately preceding and following the strike.

NEFSC will also collect and report all necessary data, to the extent practicable given the primacy of human safety and the well-being of captured or entangled marine mammals, to facilitate serious injury (SI) determinations for marine mammals that are released alive. NEFSC will require that the CS complete data forms and address supplemental questions, both of which have been

developed to aid in SI determinations. NEFSC understands the critical need to provide as much relevant information as possible about marine mammal interactions to inform decisions regarding SI determinations. In addition, the NEFSC will perform all necessary reporting to ensure that any incidental M/SI is incorporated as appropriate into relevant SARs.

Negligible Impact Analysis and Determination

Introduction—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'' by mortality, serious injury, and Level A or Level B harassment, we consider other factors, such as the likely nature of any behavioral responses (*e.g.,* intensity, duration), the context of any such responses (*e.g.,* critical reproductive time or location, migration), as well as effects on habitat, and the likely effectiveness of 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' 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 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, and specific consideration of take by M/SI previously authorized for other NMFS research activities).

We note here that the takes from potential gear interactions enumerated below could result in non-serious injury, but their worst potential outcome (mortality) is analyzed for the purposes of the negligible impact determination. We discuss here the connection, and differences, between the legal mechanisms for authorizing incidental take under section 101(a)(5) for activities such as NEFSC's research activities, and for authorizing incidental take from commercial fisheries. In 1988, Congress amended the MMPA's provisions for addressing incidental take of marine mammals in commercial fishing operations. Congress directed NMFS to develop and recommend a new long-term regime to govern such incidental taking (see MMC, 1994). The need to develop a system suited to the unique circumstances of commercial fishing operations led NMFS to suggest a new conceptual means and associated regulatory framework. That concept, PBR, and a system for developing plans containing regulatory and voluntary measures to reduce incidental take for fisheries that exceed PBR were incorporated as sections 117 and 118 in the 1994 amendments to the MMPA.

PBR is defined in section 3 of the MMPA (16 U.S.C. 1362(20)) as the maximum number of animals, not including natural mortalities, that may be removed from a marine mammal stock while allowing that stock to reach or maintain its optimum sustainable population (OSP) and, although not controlling, can be one measure considered among other factors when evaluating the effects of M/SI on a marine mammal species or stock during the section 101(a)(5)(A) process. OSP is defined in section 3 of the MMPA (16 U.S.C. 1362(9)) as the number of animals which will result in the maximum productivity of the population or the species, keeping in mind the carrying capacity of the habitat and the health of the ecosystem of which they form a constituent element. Through section 2, an overarching goal of the statute is to ensure that each species or stock of marine mammal is maintained at or returned to its OSP.

PBR values are calculated by NMFS as the level of annual removal from a stock that will allow that stock to equilibrate within OSP at least 95 percent of the time, and is the product of factors relating to the minimum population estimate of the stock (N_{min}), the productivity rate of the stock at a small population size, and a recovery factor. Determination of appropriate values for these three elements incorporates significant precaution, such that application of the parameter to the management of marine mammal stocks may be reasonably certain to achieve the goals of the MMPA. For example, calculation of N_{min} incorporates the precision and variability associated with abundance information, while also providing reasonable assurance that the stock size is equal to or greater than the estimate (Barlow *et al.,* 1995). In general, the three factors are developed on a stock-specific basis in consideration of one another in order to produce conservative PBR values that appropriately account for both imprecision that may be estimated, as well as potential bias stemming from lack of knowledge (Wade, 1998).

Congress called for PBR to be applied within the management framework for commercial fishing incidental take under section 118 of the MMPA. As a result, PBR cannot be applied appropriately outside of the section 118 regulatory framework without consideration of how it applies within the section 118 framework, as well as how the other statutory management frameworks in the MMPA differ from the framework in section 118. PBR was not designed and is not used as an absolute threshold limiting commercial fisheries. Rather, it serves as a means to evaluate the relative impacts of those activities on marine mammal stocks. Even where commercial fishing is causing M/SI at levels that exceed PBR, the fishery is not suspended. When M/SI exceeds PBR in the commercial fishing context under section 118, NMFS may develop a take reduction plan, usually with the assistance of a take reduction team. The take reduction plan will include measures to reduce and/or minimize the taking of marine mammals by commercial fisheries to a level below the stock's PBR. That is, where the total annual human-caused M/SI exceeds PBR, NMFS is not required to halt fishing activities contributing to total M/SI but rather utilizes the take reduction process to further mitigate the effects of fishery activities via additional bycatch reduction measures. In other words, under section 118 of the MMPA, PBR does not serve as a strict cap on the operation of commercial fisheries that may incidentally take marine mammals.

Similarly, to the extent PBR may be relevant when considering the impacts of incidental take from activities other than commercial fisheries, using it as the sole reason to deny (or issue) incidental take authorization for those activities would be inconsistent with Congress's intent under section 101(a)(5), NMFS' long-standing regulatory definition of ''negligible impact,'' and the use of PBR under section 118. The standard for authorizing incidental take for activities other than commercial fisheries under section 101(a)(5) continues to be, among other things that are not related to PBR, whether the total taking will have a negligible impact on the species or stock. Nowhere does section 101(a)(5)(A) reference use of PBR to make the negligible impact finding or authorize incidental take through multi-year regulations, nor does its companion provision at 101(a)(5)(D) for authorizing

non-lethal incidental take under the same negligible-impact standard. NMFS' MMPA implementing regulations state that take has a negligible impact when it does not adversely affect the species or stock through effects on annual rates of recruitment or survival—likewise without reference to PBR. When Congress amended the MMPA in 1994 to add section 118 for commercial fishing, it did not alter the standards for authorizing non-commercial fishing incidental take under section 101(a)(5), implicitly acknowledging that the negligible impact standard under section 101(a)(5) is separate from the PBR metric under section 118. In fact, in 1994 Congress also amended section 101(a)(5)(E) (a separate provision governing commercial fishing incidental take for species listed under the Endangered Species Act) to add compliance with the new section 118 but retained the standard of the negligible impact finding under section 101(a)(5)(A) (and section 101(a)(5)(D)), showing that Congress understood that the determination of negligible impact and application of PBR may share certain features but are, in fact, different.

Since the introduction of PBR in 1994, NMFS had used the concept almost entirely within the context of implementing sections 117 and 118 and other commercial fisheries management-related provisions of the MMPA. Prior to the Court's ruling in *Conservation Council for Hawaii* v. *National Marine Fisheries Service,* 97 F. Supp. 3d 1210 (D. Haw. 2015) and consideration of PBR in a series of section 101(a)(5) rulemakings, there were a few examples where PBR had informed agency deliberations under other MMPA sections and programs, such as playing a role in the issuance of a few scientific research permits and subsistence takings. But as the Court found when reviewing examples of past PBR consideration in *Georgia Aquarium* v. *Pritzker,* 135 F. Supp. 3d 1280 (N.D. Ga. 2015), where NMFS had considered PBR outside the commercial fisheries context, ''it has treated PBR as only one 'quantitative tool' and [has not used it] as the sole basis for its impact analyses.'' Further, the agency's thoughts regarding the appropriate role of PBR in relation to MMPA programs outside the commercial fishing context have evolved since the agency's early application of PBR to section 101(a)(5) decisions. Specifically, NMFS' denial of a request for incidental take authorization for the U.S. Coast Guard in 1996 seemingly was based on the potential for lethal take in relation to PBR and did not appear to consider other factors that might also have informed the potential for ship strike in relation to negligible impact (61 FR 54157; October 17, 1996).

The MMPA requires that PBR be estimated in SARs and that it be used in applications related to the management of take incidental to commercial fisheries (*i.e.,* the take reduction planning process described in section 118 of the MMPA and the determination of whether a stock is ''strategic'' as defined in section 3), but nothing in the statute requires the application of PBR outside the management of commercial fisheries interactions with marine mammals. Nonetheless, NMFS recognizes that as a quantitative metric, PBR may be useful as a consideration when evaluating the impacts of other human-caused activities on marine mammal stocks. Outside the commercial fishing context, and in consideration of all known human-caused mortality, PBR can help inform the potential effects of M/SI requested to be authorized under 101(a)(5)(A). As noted by NMFS and the U.S. Fish and Wildlife Service in our implementation regulations for the 1986 amendments to the MMPA (54 FR 40341, September 29, 1989), the Services consider many factors, when available, in making a negligible impact determination, including, but not limited to, the status of the species or stock relative to OSP (if known); whether the recruitment rate for the species or stock is increasing, decreasing, stable, or unknown; the size and distribution of the population; and existing impacts and environmental conditions. In this multi-factor analysis, PBR can be a useful indicator for when, and to what extent, the agency should take an especially close look at the circumstances associated with the potential mortality, along with any other factors that could influence annual rates of recruitment or survival.

When considering PBR during evaluation of effects of M/SI under section 101(a)(5)(A), we first calculate a metric for each species or stock that incorporates information regarding ongoing anthropogenic M/SI into the PBR value (*i.e.,* PBR minus the total annual anthropogenic mortality/serious injury estimate in the SAR), which is called ''residual PBR'' (Wood *et al.,* 2012). We first focus our analysis on residual PBR because it incorporates anthropogenic mortality occurring from other sources. If the ongoing human-caused mortality from other sources does not exceed PBR, then residual PBR is a positive number, and we consider how the anticipated or potential incidental M/SI from the activities being evaluated compares to residual PBR using the framework in the following paragraph. If the ongoing anthropogenic mortality from other sources already exceeds PBR, then residual PBR is a negative number and we consider the M/SI from the activities being evaluated as described further below.

When ongoing total anthropogenic mortality from the applicant's specified activities does not exceed PBR and residual PBR is a positive number, as a simplifying analytical tool we first consider whether the specified activities could cause incidental M/SI that is less than 10 percent of residual PBR (the ''insignificance threshold,'' see below). If so, we consider M/SI from the specified activities to represent an insignificant incremental increase in ongoing anthropogenic M/SI for the marine mammal stock in question that alone (*i.e.,* in the absence of any other take) will not adversely affect annual rates of recruitment and survival. As such, this amount of M/SI would not be expected to affect rates of recruitment or survival in a manner resulting in more than a negligible impact on the affected stock unless there are other factors that could affect reproduction or survival, such as Level A and/or Level B harassment, or other considerations such as information that illustrates uncertainty involved in the calculation of PBR for some stocks. In a few prior incidental take rulemakings, this threshold was identified as the ''significance threshold,'' but it is more accurately labeled an insignificance threshold, and so we use that terminology here. Assuming that any additional incidental take by Level A or Level B harassment from the activities in question would not combine with the effects of the authorized M/SI to exceed the negligible impact level, the anticipated M/SI caused by the activities being evaluated would have a negligible impact on the species or stock. However, M/SI above the 10 percent insignificance threshold does not indicate that the M/SI associated with the specified activities is approaching a level that would necessarily exceed negligible impact. Rather, the 10 percent insignificance threshold is meant only to identify instances where additional analysis of the anticipated M/SI is not required because the negligible impact standard clearly will not be exceeded on that basis alone.

Where the anticipated M/SI is near, at, or above residual PBR, consideration of other factors (positive or negative), including those outlined above, as well as mitigation is especially important to

assessing whether the M/SI will have a negligible impact on the species or stock. PBR is a conservative metric and not sufficiently precise to serve as an absolute predictor of population effects upon which mortality caps would appropriately be based. For example, in some cases stock abundance (which is one of three key inputs into the PBR calculation) is underestimated because marine mammal survey data within the U.S. EEZ are used to calculate the abundance even when the stock range extends well beyond the U.S. EEZ. An underestimate of abundance could result in an underestimate of PBR. Alternatively, we sometimes may not have complete M/SI data beyond the U.S. EEZ to compare to PBR, which could result in an overestimate of residual PBR. The accuracy and certainty around the data that feed any PBR calculation, such as the abundance estimates, must be carefully considered to evaluate whether the calculated PBR accurately reflects the circumstances of the particular stock. M/SI that exceeds PBR may still potentially be found to be negligible in light of other factors that offset concern, especially when robust mitigation and adaptive management provisions are included.

PBR was designed as a tool for evaluating mortality and is defined as the number of animals that can be removed while allowing that stock to reach or maintain its OSP. OSP is defined as a population that falls within a range from the population level that is the largest supportable within the ecosystem to the population level that results in maximum net productivity, and thus is an aspirational management goal of the overall statute with no specific timeframe by which it should be met. PBR is designed to ensure minimal deviation from this overarching goal, with the formula for PBR typically ensuring that growth towards OSP is not reduced by more than 10 percent (or equilibrates to OSP 95 percent of the time). As PBR is applied by NMFS, it provides that growth toward OSP is not reduced by more than 10 percent, which certainly allows a stock to reach or maintain its OSP in a conservative and precautionary manner—and we can therefore clearly conclude that if PBR were not exceeded, there would not be adverse effects on the affected species or stocks. Nonetheless, it is equally clear that in some cases the time to reach this aspirational OSP level could be slowed by more than 10 percent (*i.e.,* total human-caused mortality in excess of PBR could be allowed) without adversely affecting a species or stock through effects on its rates of recruitment or survival. Thus even in situations where the inputs to calculate PBR are thought to accurately represent factors such as the species' or stock's abundance or productivity rate, it is still possible for incidental take to have a negligible impact on the species or stock even where M/SI exceeds residual PBR or PBR.

PBR is helpful in informing the analysis of the effects of mortality on a species or stock because it is important from a biological perspective to be able to consider how the total mortality in a given year may affect the population. However, section 101(a)(5)(A) of the MMPA indicates that NMFS shall authorize the requested incidental take from a specified activity if we find that the total of such taking [*i.e.,* from the specified activity] will have a negligible impact on such species or stock. In other words, the task under the statute is to evaluate the applicant's anticipated take in relation to their take's impact on the species or stock, not other entities' impacts on the species or stock. Neither the MMPA nor NMFS' implementing regulations call for consideration of other unrelated activities and their impacts on the species or stock. In fact, in response to public comments on the implementing regulations NMFS explained that such effects are not considered in making negligible impact findings under section 101(a)(5), although the extent to which a species or stock is being impacted by other anthropogenic activities is not ignored. Such effects are reflected in the baseline of existing impacts as reflected in the species' or stock's abundance, distribution, reproductive rate, and other biological indicators.

Our evaluation of the M/SI for each of the species and stocks for which M/SI could occur follows. In addition, all mortality authorized for some of the same species or stocks over the next several years pursuant to our final rulemakings for the NMFS Southeast Fisheries Science Center (SEFSC) and U.S. Navy has been incorporated into the residual PBR. By considering the maximum potential incidental M/SI in relation to PBR and ongoing sources of anthropogenic mortality, we begin our evaluation of whether the potential incremental addition of M/SI through NEFSC research activities may affect the species' or stocks' annual rates of recruitment or survival. We also consider the interaction of those mortalities with incidental taking of that species or stock by harassment pursuant to the specified activity.

We first consider maximum potential incidental M/SI for each stock (Table 10) in consideration of NMFS's threshold for identifying insignificant M/SI take (10 percent of residual PBR (69 FR 43338; July 20, 2004)). By considering the maximum potential incidental M/SI in relation to PBR and ongoing sources of anthropogenic mortality, we begin our evaluation of whether the potential incremental addition of M/SI through NEFSC research activities may affect the species' or stock's annual rates of recruitment or survival. We also consider the interaction of those mortalities with incidental taking of that species or stock by harassment pursuant to the specified activity.

Summary of Estimated Incidental Take

Here we provide a summary of the total incidental take authorization on an annual basis, as well as other information relevant to the negligible impact analysis. Table 19 shows information relevant to our negligible impact analysis concerning the annual amount of M/SI take that could occur for each stock when considering the proposed incidental take along with other sources of M/SI. As noted previously, although some gear interactions may result in Level A harassment or the release of an uninjured animal, for the purposes of the negligible impact analysis, we assume that all of these takes could potentially be in the form of M/SI.

We previously authorized take of marine mammals incidental to fisheries research operations conducted by the SEFSC (see 85 FR 27028, May 6, 2020) and U.S. Navy (84 FR 70712, December 23, 2019). This take would occur to some of the same stocks for which we may authorize take incidental to NEFSC fisheries research operations. Therefore, in order to evaluate the likely impact of the take by M/SI in this rule, we consider not only other ongoing sources of human-caused mortality but the potential mortality authorized for SEFSC fisheries and ecosystem research and U.S. Navy testing and training in the Atlantic Ocean. As used in this document, other ongoing sources of human-caused (anthropogenic) mortality refers to estimates of realized or actual annual mortality reported in the SARs and does not include authorized or unknown mortality. Below, we consider the total taking by M/SI for NEFSC activities and previously authorized for SEFSC and Navy activities together to produce a maximum annual M/SI take level (including take of unidentified marine mammals that could accrue to any relevant stock) and compare that value to the stock's PBR value, considering ongoing sources of anthropogenic

mortality. PBR and annual M/SI values considered in Table 19 reflect the most recent information available (*i.e.,* draft 2020 SARs).

TABLE 19—SUMMARY INFORMATION RELATED TO NEFSC PROPOSED ANNUAL TAKE BY MORTALITY OR SERIOUS INJURY AUTHORIZATION, 2021–2026

Species	Stock	Stock abundance	Proposed NEFSC M/SI take (annual)	PBR	Annual M/SI	SEFSC take by M/SI	Navy AFTT take by M/SI	r-PBR	Total M/SI take r-PBR (%)
Minke whale	Canadian East Coast	2,591	1	170	10.6	0	0.14	159.26	0.63
Risso's dolphin	W. North Atlantic	35,493	0.6	303	54.3	0.2	0	248.5	0.24
Atlantic white-sided dolphin		93,233	0.6	544	26	0	1.4	516.6	0.12
White-beaked common dolphin.		536,016	0.4	4,153	0	0	0	4,153	0.01
Short-beaked common dolphin.		172,974	1.4	1,452	399	0.8	0	1,052.2	0.13
Atlantic spotted dolphin		39,921	0.4	320	0	0.8	0	319.2	0.13
bottlenose dolphin	(offshore stock)	62,851	1.6	519	28	0.8	0	490.2	0.33
bottlenose dolphin	(N. migratory stock)	6,639	1.6	48	12.2–21.5	0.8	0	25.7–35	<1
bottlenose dolphin	(S. migratory stock)	3,751	0.2	23	0 to 18.3	0.8	0	3.9–22.2	<7.8–70
Harbor porpoise	GoM/Bay of Fundy	95,543	1.4	851	217	0.2	0	633.8	0.22
Harbor seal	W. North Atlantic	75,834	5	2,006	350	0.2	0	1,656	0.30
Gray seal		27,131	5	1,389	47,296	0.2	0	−45,907	

All but one stocks that may potentially be taken by M/SI fall below the insignificance threshold (*i.e.,* 10 percent of residual PBR). The annual proposed take of grey seals is above the insignificance threshold.

Stocks With M/SI Below the Insignificance Threshold

As noted above, for a species or stock with incidental M/SI less than 10 percent of residual PBR, we consider M/SI from the specified activities to represent an insignificant incremental increase in ongoing anthropogenic M/SI that alone (*i.e.,* in the absence of any other take and barring any other unusual circumstances) will clearly not adversely affect annual rates of recruitment and survival. In this case, as shown in Table 19, the following species or stocks have proposed M/SI from NEFSC fisheries research below their insignificance threshold: Minke whale (Canadian east coast); Risso's dolphin; the Western North Atlantic stocks of Atlantic white-sided dolphin; White-beaked common dolphin; Short-beaked common dolphin; Atlantic spotted dolphin; bottlenose dolphin (offshore and Northern migratory); harbor porpoise (Gulf of Marine/Bay of Fundy), and harbor seal (Western North Atlantic).

For these stocks with authorized M/SI below the insignificance threshold, there are no other known factors, information, or unusual circumstances that indicate anticipated M/SI below the insignificance threshold could have adverse effects on annual rates of recruitment or survival and they are not discussed further.

Stocks With M/SI Above the Insignificance Threshold

There is one stock for which we propose to authorize take where the annual rate of M/SI is above the 10 percent insignificance threshold: The western North Atlantic stock of gray seals. For this species, we explain below why we have preliminarily determined the proposed take is not expected or likely to adversely affect the species or stock through effects on annual rates of recruitment or survival.

At first glance, the annual rate of mortality of gray seals exceeds PBR in absence of any authorized take proposed here or in other LOAs. However, the size of population reported in the SAR (and consequently the PBR value) is estimated separately for the portion of the population in Canada versus the U.S., and mainly reflects the size of the breeding population in each respective country. However, the annual estimated human-caused mortality and serious injury values in the SAR reflects both U.S. and Canada M/SI. For the period 2014–2018, the average annual estimated human-caused mortality and serious injury to gray seals in the U.S. and Canada was 4,729 (953 U.S./3,776 Canada) per year. Therefore, The U.S. portion of 2013–2017 average annual human-caused mortality and serious injury during 2014–2018 in U.S. waters does not exceed the portion of PBR in of the U.S. waters portion of the stocks but is still high (approximately 68 percent of PBR).

In U.S. waters, the number of pupping sites has increased from 1 in 1988 to 9 in 2019, and are located in Maine and Massachusetts (Wood et al. 2019). Mean rates of increase in the number of pups born at various times since 1988 at 4 of the more frequently surveyed pupping sites (Muskeget, Monomoy, Seal, and Green Islands) ranged from −0.2 percent (95% CI: −2.3–1.9%) to 26.3 percent (95% CI: 21.6–31.4%) (Wood et al. 2019). These high rates of increase provide further support that seals from other areas are continually supplementing the breeding population in U.S. waters. From 1988–2019, the estimated mean rate of increase in the number of pups born was 12.8 percent on Muskeget Island, 26.3 percent on Monomoy Island, 11.5 percent on Seal Island, and −0.2 percent on Green Island (Wood et al. 2019). These rates only reflect new recruits to the population and do not reflect changes in total population growth resulting from Canadian seals migrating to the region. Overall, the total population of gray seals in Canada was estimated to be increasing by 4.4 percent per year from 1960–2016 (Hammill et al. 2017). The status of the gray seal population relative to OSP in U.S. Atlantic EEZ waters is unknown, but the stock's abundance appears to be increasing in both Canadian and U.S. waters. For these reasons, the issuance of the proposed M/SI take is not likely to affect annual rates of recruitment of survival.

Acoustic Effects

As described in greater depth previously, the NEFSC's use of active acoustic sources has the likely potential to result in no greater than Level B (behavioral) harassment of marine mammals. Level A harassment is not an anticipated outcome of exposure, and we are not proposing to authorize it. Marine mammals are expected to have short-term, minor behavioral reactions to exposure such as moving away from the source. Some marine mammals (*e.g.,*

delphinids) may choose to bow ride the source vessel; in which case exposure is expected to have no effect on behavior. For the majority of species, the amount of proposed annual take by Level B harassment is very low (less than 1 percent) in relation to the population abundance estimate. For stocks above 1 percent (n=3), the amount of proposed annual take by Level B harassment is less than 12 percent.

We have produced what we believe to be conservative estimates of potential incidents of Level B harassment. The procedure for producing these estimates, described in detail in the notice of proposed rulemaking for the initial LOA (80 FR 39542, July 9, 2015) and summarized earlier in the *Estimated Take Due to Acoustic Harassment* section, represents NMFS' best effort towards balancing the need to quantify the potential for occurrence of Level B harassment due to production of underwater sound with a general lack of information related to the specific way that these acoustic signals, which are generally highly directional and transient, interact with the physical environment and to a meaningful understanding of marine mammal perception of these signals and occurrence in the areas where the NEFSC operates. The sources considered here have moderate to high output frequencies (10 to 200 kHz), generally short ping durations, and are typically focused (highly directional) to serve their intended purpose of mapping specific objects, depths, or environmental features. In addition, some of these sources can be operated in different output modes (*e.g.,* energy can be distributed among multiple output beams) that may lessen the likelihood of perception by and potential impacts on marine mammals in comparison with the quantitative estimates that guide our take authorization.

In particular, low-frequency hearing specialists (*i.e.,* mysticetes) are less likely to perceive or, given perception, to react to these signals. As described previously, NEFSC determined that the EK60, ME 70, and DSM 300 sources comprise the total effective exposures relative to line-kilometers surveyed. Acoustic disturbance takes are calculated for these three dominant sources. Of these dominant acoustic sources, only the EK 60 can use a frequency within the hearing range of baleen whales (18k Hz). Therefore, Level B harassment of baleen whales is only expected for exposure to the EK60. The other two dominant sources are outside of their hearing range. There is some minimal potential for temporary effects to hearing for certain marine mammals, but most effects would likely be limited to temporary behavioral disturbance. Effects on individuals that are taken by Level B harassment will likely be limited to reactions such as increased swimming speeds, increased surfacing time, or decreased foraging (if such activity were occurring), reactions that are considered to be of low severity (*e.g.,* Southall *et al.,* 2007). There is the potential for behavioral reactions of greater severity, including displacement, but because of the directional nature of the sources considered here and because the source is itself moving, these outcomes are unlikely and would be of short duration if they did occur. Although there is no information on which to base any distinction between incidents of harassment and individuals harassed, the same factors, in conjunction with the fact that NEFSC survey effort is widely dispersed in space and time, indicate that repeated exposures of the same individuals would be unlikely. The acoustic sources proposed to be used by NEFSC are generally of low source level, higher frequency, and narrow beamwidth. As described previously, there is some minimal potential for temporary effects to hearing for certain marine mammals, but most effects would likely be limited to temporary behavioral disturbance. Effects on individuals that are taken by Level B harassment will likely be limited to reactions such as increased swimming speeds, increased surfacing time, or decreased foraging (if such activity were occurring), reactions that are considered to be of low severity (*e.g.,* Ellison *et al.,* 2012). Individuals may move away from the source if disturbed; however, because the source is itself moving and because of the directional nature of the sources considered here, there is unlikely to be even temporary displacement from areas of significance and any disturbance would be of short duration. The areas ensonified above the Level B harassment threshold during NEFSC surveys are extremely small relative to the overall survey areas. Although there is no information on which to base any distinction between incidents of harassment and individuals harassed, the same factors, in conjunction with the fact that NEFSC survey effort is widely dispersed in space and time, indicate that repeated exposures of the same individuals would be very unlikely. The short term, minor behavioral responses that may occur incidental to NEFSC use of acoustic sources, are not expected to result in impacts the reproduction or survival of any individuals, much less have an adverse impact on the population.

Similarly, disturbance of pinnipeds by researchers are expected to be infrequent and cause only a temporary disturbance on the order of minutes. This level of periodic incidental harassment would have temporary effects and would not be expected to alter the continued use of the tidal ledges by seals. Anecdotal reports from previous monitoring show that the pinnipeds returned to the various sites and did not permanently abandon haulout sites after the NEFSC conducted their research activities. Monitoring results from other activities involving the disturbance of pinnipeds and relevant studies of pinniped populations that experience more regular vessel disturbance indicate that individually significant or population level impacts are unlikely to occur. When considering the individual animals likely affected by this disturbance, only a small fraction of the estimated population abundance of the affected stocks would be expected to experience the disturbance. Therefore, the NEFSC activity cannot be reasonably expected to, and is not reasonably likely to, adversely affect species or stocks through effects on annual rates of recruitment or survival.

Conclusions

In summary, as described in the *Serious Injury and Mortality* section, the proposed takes by serious injury or mortality from NEFSC activities, alone, are unlikely to adversely affect any species or stock through effects on annual rates of recruitment or survival. Further, the low severity and magnitude of expected Level B harassment is not predicted to affect the reproduction or survival of any individual marine mammals, much less the rates of recruitment or survival of any species or stock. Therefore, the authorized Level B harassment, alone or in combination with the M/SI authorized for some species or stocks, will result in a negligible impact on the effected stocks and species.

Based on the analysis contained herein of the likely effects of the specified activity on marine mammals and their habitat, and taking into consideration the implementation of the proposed monitoring and mitigation measures, NMFS preliminarily finds that the total marine mammal take from the proposed activity will have a negligible impact on all affected marine mammal species or stocks.

Small Numbers

As noted above, only small numbers of incidental take may be authorized under sections 101(a)(5)(A) and (D) of the MMPA for specified activities other than military readiness activities. The MMPA does not define small numbers and so, in practice, where estimated numbers are available, NMFS compares the number of individuals taken to the most appropriate estimation of abundance of the relevant species or stock in our determination of whether an authorization is limited to small numbers of marine mammals. 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.

Please see Table 18 for information relating to this small numbers analysis. The total amount of taking proposed for authorization is less than one percent for a majority of stocks, and no more than 12 percent for any given stock.

Based on the analysis contained herein of the proposed activity (including the proposed mitigation and monitoring measures) and the anticipated take of marine mammals, NMFS preliminarily finds that small numbers of marine mammals will be taken relative to the population size of the affected species or stocks.

Unmitigable Adverse Impact Analysis and Determination

There are no relevant subsistence uses of the affected marine mammal stocks or species implicated by the issuance of regulations to the NEFSC. Therefore, NMFS has determined that the total taking of affected species or stocks would not have an unmitigable adverse impact on the availability of such species or stocks for taking for subsistence purposes.

Endangered Species Act

Section 7(a)(2) of the Endangered Species Act of 1973 (ESA: 16 U.S.C. 1531 *et seq.*) requires that each Federal agency insure that any action it authorizes, funds, or carries out is not likely to jeopardize the continued existence of any endangered or threatened species or result in the destruction or adverse modification of designated critical habitat. To ensure ESA compliance for the issuance of IHAs, NMFS consults whenever we propose to authorize take for endangered or threatened species, in this case with the Greater Atlantic Regional Fisheries Office (GARFO).

NMFS is proposing to authorize take, by Level B harassment only of North Atlantic right, fin, sei, blue and sperm whales, which are listed under the ESA. Therefore, OPR has requested initiation of Section 7 consultation with the GARFO for the issuance of this IHA. NMFS will conclude the ESA consultation prior to reaching a determination regarding the proposed issuance of the authorization.

Adaptive Management

The regulations governing the take of marine mammals incidental to NEFSC fisheries research survey operations would contain an adaptive management component. The inclusion of an adaptive management component will be both valuable and necessary within the context of five-year regulations for activities that have been associated with marine mammal mortality.

The reporting requirements associated with this proposed rule are designed to provide OPR with monitoring data from the previous year to allow consideration of whether any changes are appropriate. OPR and the NEFSC will meet annually to discuss the monitoring reports and current science and whether mitigation or monitoring modifications are appropriate. The use of adaptive management allows OPR to consider new information from different sources to determine (with input from the NEFSC 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 research 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.

Request for Information

NMFS requests interested persons to submit comments, information, and suggestions concerning the NEFSC request and the proposed regulations (see **ADDRESSES**). All comments will be reviewed and evaluated as we prepare final rules and make final determinations on whether to issue the requested authorizations. This notice and referenced documents provide all environmental information relating to our proposed action for public review.

Classification

The Office of Management and Budget has determined that this proposed rule is not significant for purposes of Executive Order 12866.

Pursuant to section 605(b) of the Regulatory Flexibility Act (RFA), the Chief Counsel for Regulation of the Department of Commerce has certified to the Chief Counsel for Advocacy of the Small Business Administration that this proposed rule, if adopted, would not have a significant economic impact on a substantial number of small entities. NMFS is the sole entity that would be responsible for adhering to the requirements in these proposed regulations, and NMFS is not a small governmental jurisdiction, small organization, or small business, as defined by the RFA. Because of this certification, a regulatory flexibility analysis is not required and none has been prepared.

This proposed rule does not contain a collection-of-information requirement subject to the provisions of the Paperwork Reduction Act (PRA) because the applicant is a Federal agency. Notwithstanding any other provision of law, no person is required to respond to nor must a person be subject to a penalty for failure to comply with a collection of information subject to the requirements of the PRA unless that collection of information displays a currently valid OMB control number. These requirements have been approved by OMB under control number 0648–0151 and include applications for regulations, subsequent LOAs, and reports.

List of Subjects in 50 CFR Part 219

Endangered and threatened species, Fish, Marine mammals, Reporting and recordkeeping requirements, Wildlife.

Dated: May 21, 2021.

Samuel D. Rauch III,

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

For the reasons stated in the preamble, 50 CFR part 219 is proposed to be amended as follows:

PART 219—REGULATIONS GOVERNING THE TAKING AND IMPORTING OF MARINE MAMMALS

■ 1. The authority citation for part 219 continues to read as follows:

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

■ 2. Amend Subpart D to part 219 to read as follows:

Subpart D—Taking Marine Mammals Incidental to Northeast Fisheries Science Center Fisheries Research in the Atlantic Coast Region

Sec.
219.31 Specified activity and specified geographical region.
219.32 Effective dates.
219.33 Permissible methods of taking.
219.34 Prohibitions.
219.35 Mitigation requirements.
219.36 Requirements for monitoring and reporting.
219.37 Letters of Authorization.
219.38 Renewals and modifications of Letters of Authorization.
219.39 [Reserved]
219.40 [Reserved]

Subpart D—Taking Marine Mammals Incidental to Northeast Fisheries Science Center Fisheries Research in the Atlantic Coast Region

§ 219.31 Specified activity and specified geographical region.

(a) Regulations in this subpart apply only to the National Marine Fisheries Service's (NMFS) Northeast Fisheries Science Center and those persons it authorizes or funds to conduct activities in the area outlined in paragraph (b) of this section during research survey program operations.

(b) The incidental taking of marine mammals by Northeast Fisheries Science Center may be authorized in a Letter of Authorization (LOA) only if it occurs within the Northeast and Southeast Large Marine Ecosystem.

§ 219.32 Effective dates.

Regulations in this subpart are effective from September 10, 2021 through September 9, 2026.

§ 219.33 Permissible methods of taking.

(a) Under LOAs issued pursuant to §§ 216.106 of this chapter and 219.37, the Holder of the LOA (hereinafter ''NEFSC'') may incidentally, but not intentionally, take marine mammals within the area described in § 219.31(b) of this chapter by Level B harassment associated with use of active acoustic systems and physical or visual disturbance of hauled out pinnipeds and by Level A harassment, serious injury, or mortality associated with use of trawl, dredge, bottom and pelagic longline, gillnet, pot and trap, and fyke net gears, provided the activity is in compliance with all terms, conditions, and requirements of the regulations in this subpart and the appropriate LOA, provided the activity is in compliance with all terms, conditions, and requirements of the regulations in this subpart and the appropriate LOA.

§ 219.34 Prohibitions.

Except for takings contemplated in § 219.33 and authorized by a LOA issued under §§ 216.106 of this chapter and 219.37, it shall be unlawful for any person to do any of the following in connection with the activities described in § 219.31:

(a) 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 219.37;

(b) Take any marine mammal not specified in such LOA;

(c) Take any marine mammal specified in such LOA in any manner other than as specified;

(d) 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; or

(e) Take a marine mammal specified in such LOA if NMFS determines such taking results in an unmitigable adverse impact on the species or stock of such marine mammal for taking for subsistence uses.

§ 219.35 Mitigation requirements.

When conducting the activities identified in § 219.31(a), the mitigation measures contained in any LOA issued under §§ 216.106 of this chapter and 219.37 must be implemented. These mitigation measures must include but are not limited to:

(a) *General conditions:*

(1) NEFSC must take all necessary measures to coordinate and communicate in advance of each specific survey with the National Oceanic and Atmospheric Administration's (NOAA) Office of Marine and Aviation Operations (OMAO) or other relevant parties on non-NOAA platforms to ensure that all mitigation measures and monitoring requirements described herein, as well as the specific manner of implementation and relevant event-contingent decision-making processes, are clearly understood and agreed upon;

(2) NEFSC must coordinate and conduct briefings at the outset of each survey and as necessary between the ship's crew (Commanding Officer/master or designee(s), contracted vessel owners, as appropriate) and scientific party or in order to explain responsibilities, communication procedures, marine mammal monitoring protocol, and operational procedures;

(3) NEFSC must coordinate as necessary on a daily basis during survey cruises with OMAO personnel or other relevant personnel on non-NOAA platforms to ensure that requirements, procedures, and decision-making processes are understood and properly implemented;

(4) When deploying any type of sampling gear at sea, NEFSC must at all times monitor for any unusual circumstances that may arise at a sampling site and use best professional judgment to avoid any potential risks to marine mammals during use of all research equipment;

(5) All vessels must comply with applicable and relevant take reduction plans, including any required use of acoustic deterrent devices;

(6) If a NEFSC vessel 65 ft or longer is traveling within a North Atlantic right whale Seasonal Management Area, the vessel shall not exceed 10 knots in speed. When practicable, all NEFSC vessels traveling within a Dynamic Management Area shall not exceed 10 knots in speed;

(7) All NEFSC vessels shall maintain a separation distance of 500 m and 100 m from a North Atlantic right whale and other large whales, respectively;

(8) If a North Atlantic right whale is observed at any time during NEFSC research activities, NEFSC must immediately report sighting information to NMFS (866–755–6622), the U.S. Coast Guard via channel 16 and through the WhaleAlert app (*http://www.whalealert.org/*);

(9) NEFSC must implement handling and/or disentanglement protocols as specified in the guidance provided to NEFSC survey personnel; and

(10) In the case of a bottlenose dolphin entanglement resulting in mortality and stock origin is unknown, the NEFSC must request and arrange for expedited genetic sampling for stock determination and photograph the dorsal fin and submit the image to the NMFS Regional Marine Mammal Stranding Coordinator for identification/matching to bottlenose dolphins in the Bottlenose Dolphin Photo-identification Catalog.

(b) *Trawl survey protocols:*

(1) NEFSC must conduct trawl operations as soon as is practicable upon arrival at the sampling station;

(2) NEFSC must initiate marine mammal watches (visual observation) 15 minutes prior to sampling within 1 km of the site. Marine mammal watches must be conducted by scanning the surrounding waters with the naked eye and binoculars (or monocular). During nighttime operations, visual observation will be conducted using the naked eye and available vessel lighting;

(3) NEFSC must implement the following ''move-on rule.'' If a marine mammal is sighted within 1 nautical mile (nm) of the planned location in the 15 minutes before gear deployment,

NEFSC must move the vessel away from the marine mammal to a different section of the sampling area if the animal appears to be at risk of interaction with the gear based on best professional judgement. If, after moving on, marine mammals are still visible from the vessel, NEFSC may decide to move again or to skip the station;

(4) NEFSC must maintain visual monitoring effort during the entire period of time that trawl gear is in the water (*i.e.,* throughout gear deployment, fishing, and retrieval). If marine mammals are sighted before the gear is fully removed from the water, NEFSC must take the most appropriate action to avoid marine mammal interaction;

(5) If trawling operations have been suspended because of the presence of marine mammals, NEFSC may resume only after there are no sightings for 15 minutes within 1nm of sampling location;

(6) NEFSC must implement standard survey protocols to minimize potential for marine mammal interaction, including minimum tow durations at target depth and minimum tow distance, and must carefully empty the trawl as quickly as possible upon retrieval; and

(7) Trawl nets must be cleaned prior to deployment.

(c) *Dredge survey protocols:*

(1) NEFSC must deploy dredge gear as soon as is practicable upon arrival at the sampling station;

(2) NEFSC must initiate marine mammal watches (visual observation) prior to sampling. Marine mammal watches must be conducted by scanning the surrounding waters with the naked eye and binoculars (or monocular). During nighttime operations, visual observation must be conducted using the naked eye and available vessel lighting;

(3) NEFSC must implement the following ''move-on rule.'' If marine mammals are sighted within 1 nautical mile (nm) of the planned location in the 15 minutes before gear deployment, the NEFSC may decide to move the vessel away from the marine mammal to a different section of the sampling area if the animal appears to be at risk of interaction with the gear, based on best professional judgement. If, after moving on, marine mammals are still visible from the vessel, NEFSC may decide to move again or to skip the station;

(4) NEFSC must maintain visual monitoring effort during the entire period of time that dredge gear is in the water (*i.e.,* throughout gear deployment, fishing, and retrieval). If marine mammals are sighted before the gear is fully removed from the water, NEFSC must take the most appropriate action to avoid marine mammal interaction. NEFSC may use best professional judgment in making this decision;

(5) If dredging operations have been suspended because of the presence of marine mammals, NEFSC may resume operations when practicable only when the animals are believed to have departed the area or after 15 minutes of no sightings. NEFSC may use best professional judgment in making this determination; and

(6) NEFSC must carefully empty the dredge gear as quickly as possible upon retrieval to determine if marine mammals are present in the gear.

(d) *Bottom and pelagic longline survey protocols:*

(1) NEFSC must deploy longline gear as soon as is practicable upon arrival at the sampling station;

(2) NEFSC must initiate marine mammal watches (visual observation) no less than fifteen minutes prior to both deployment and retrieval of the longline gear. Marine mammal watches must be conducted by scanning the surrounding waters with the naked eye and binoculars (or monocular). During nighttime operations, visual observation must be conducted using the naked eye and available vessel lighting;

(3) NEFSC must implement the following ''move-on rule.'' If marine mammals are sighted within 1 nautical mile (nmi) of the planned location in the 15 minutes before gear deployment, the NEFSC may decide to move the vessel away from the marine mammal to a different section of the sampling area if the animal appears to be at risk of interaction with the gear, based on best professional judgement. If, after moving on, marine mammals are still visible from the vessel, NEFSC may decide to move again or to skip the station;

(4) For the Apex Predators Bottom Longline Coastal Shark Survey, if one or more marine mammals are observed within 1 nautical mile (nm) of the planned location in the 15 minutes before gear deployment, NEFSC must transit to a different section of the sampling area to maintain a minimum set distance of 1 nmi from the observed marine mammals. If, after moving on, marine mammals remain within 1 nmi, NEFSC may decide to move again or to skip the station. NEFSC may use best professional judgment in making this decision but may not elect to conduct pelagic longline survey activity when animals remain within the 1-nmi zone;

(5) NEFSC must maintain visual monitoring effort during the entire period of gear deployment or retrieval. If marine mammals are sighted before the gear is fully deployed or retrieved, NEFSC must take the most appropriate action to avoid marine mammal interaction. NEFSC may use best professional judgment in making this decision;

(6) If deployment or retrieval operations have been suspended because of the presence of marine mammals, NEFSC may resume such operations after there are no sightings of marine mammals for at least 15 minutes within the area or within the 1-nm area for the Apex Predators Bottom Longline Coastal Shark Survey. NEFSC may use best professional judgment in making this decision; and

(7) NEFSC must implement standard survey protocols, including maximum soak durations and a prohibition on chumming.

(e) *Gillnet survey protocols:*

(1) The NEFSC and/or its cooperating institutions, contracted vessels, or commercially-hired captains must deploy gillnet gear as soon as is practicable upon arrival at the sampling station;

(2) The NEFSC and/or its cooperating institutions, contracted vessels, or commercially-hired captains must initiate marine mammal watches (visual observation) prior to both deployment and retrieval of the gillnet gear. When the vessel is on station during the soak, marine mammal watches must be conducted during the soak by scanning the surrounding waters with the naked eye and binoculars (or monocular);

(3) The NEFSC and/or its cooperating institutions, contracted vessels, or commercially-hired captains must implement the following ''move-on rule.'' If marine mammals are sighted within 1 nmi of the planned location in the 15 minutes before gear deployment, the NEFSC and/or its cooperating institutions, contracted vessels, or commercially-hired captains, may decide to move the vessel away from the marine mammal to a different section of the sampling area if the animal appears to be at risk of interaction with the gear based on best professional judgement. If, after moving on, marine mammals are still visible from the vessel, the NEFSC and/or its cooperating institutions, contracted vessels, or commercially-hired captains may decide to move again or to skip the station;

(4) If marine mammals are sighted near the vessel during the soak and are determined to be at risk of interacting with the gear, then the NEFSC and/or its cooperating institutions, contracted vessels, or commercially-hired captains must carefully retrieve the gear as quickly as possible. The NEFSC and/or its cooperating institutions, contracted vessels, or commercially-hired captains

may use best professional judgment in making this decision;

(5) The NEFSC and/or its cooperating institutions, contracted vessels, or commercially-hired captains must implement standard survey protocols, including continuously monitoring the gillnet gear during soak time and removing debris with each pass as the net is reset into the water to minimize bycatch;

(6) The NEFSC and/or its cooperating institutions, contracted vessels, or commercially-hired captains must ensure that surveys deploy acoustic pingers on gillnets in areas where required for commercial fisheries. NEFSC must ensure that the devices are operating properly before deploying the net;

(7) NEFSC must ensure that cooperating institutions, contracted vessels, or commercially-hired captains conducting gillnet surveys adhere to monitoring and mitigation requirements and must include required protocols in all survey instructions, contracts, and agreements;

(8) For the COASTSPAN gillnet surveys, the NEFSC will actively monitor for potential bottlenose dolphin entanglements by hand-checking the gillnet every 30 minutes; and

(9) NEFSC will set only new or fully repaired gill nets, and modify nets to avoid large vertical gaps between float line and net as well as lead line and net when set.

(f) *Pot and trap survey protocols:*

(1) The NEFSC and/or its cooperating institutions, contracted vessels, or commercially-hired captains must deploy pot gear as soon as is practicable upon arrival at the sampling station;

(2) The NEFSC and/or its cooperating institutions, contracted vessels, or commercially-hired captains must initiate marine mammal watches (visual observation) no less than 30 minutes prior to both deployment and retrieval of the pot and trap gear. Marine mammal watches must be conducted by scanning the surrounding waters with the naked eye and binoculars (or monocular). During nighttime operations, visual observation must be conducted using the naked eye and available vessel lighting;

(3) The NEFSC and/or its cooperating institutions, contracted vessels, or commercially-hired captains must implement the following ''move-on'' rule. If marine mammals are sighted within 1 nmi of the planned location in the 15 minutes before gear deployment, the NEFSC and/or its cooperating institutions, contracted vessels, or commercially-hired captains, as appropriate, may decide to move the vessel away from the marine mammal to a different section of the sampling area if the animal appears to be at risk of interaction with the gear, based on best professional judgement. If, after moving on, marine mammals are still visible from the vessel, the NEFSC, and/or its cooperating institutions, contracted vessels, or commercially-hired captains may decide to move again or to skip the station;

(4) If marine mammals are sighted near the vessel during the soak and are determined to be at risk of interacting with the gear, then the NEFSC and/or its cooperating institutions, contracted vessels, or commercially-hired captains must carefully retrieve the gear as quickly as possible. The NEFSC and/or its cooperating institutions, contracted vessels, or commercially-hired captains may use best professional judgment in making this decision;

(5) The NEFSC and/or its cooperating institutions, contracted vessels, or commercially-hired captains must ensure that surveys deploy gear fulfilling all Pot/Trap universal commercial gear configurations such as weak link requirements and marking requirements as specified by applicable take reduction plans as required for commercial pot/trap fisheries; and

(6) The NEFSC must ensure that its cooperating institutions, contracted vessels, or commercially-hired captains conducting pot and trap surveys adhere to monitoring and mitigation requirements and must include required protocols in all survey instructions, contracts, and agreements.

(g) *Fyke net gear protocols:*

(1) NEFSC must conduct fyke net gear deployment as soon as is practicable upon arrival at the sampling station;

(2) NEFSC must visually survey the area prior to both deployment and retrieval of the fyke net gear. NEFSC must conduct monitoring and retrieval of the gear every 12- to 24-hour soak period;

(3) If marine mammals are in close proximity (approximately 328 feet [100 meters]) of the set location, NEFSC must determine if the net should be removed from the water and the set location should be moved using best professional judgment;

(4) If marine mammals are observed to interact with the gear during the setting, NEFSC must remove the gear from the water and implement best handling practices; and

(5) NEFSC must install and use a marine mammal excluder device at all times when the 2-meter fyke net is used.

(h) *Rotary screw trap gear protocols:*

(1) NEFSC must conduct rotary screw trap deployment as soon as is practicable upon arrival at the sampling station;

(2) NEFSC must visually survey the area prior to both setting and retrieval of the rotary screw trap gear. If marine mammals are observed in the sampling area, NEFSC must suspend or delay the sampling. NEFSC may use best professional judgment in making this decision;

(3) NEFSC must tend to the trap on a daily basis to monitor for marine mammal interactions with the gear; and

(4) If the rotary screw trap captures a marine mammal, NEFSC must remove gear and and implement best handling practices.

§ 219.36 Requirements for monitoring and reporting.

(a) *Compliance coordinator*—NEFSC shall designate a compliance coordinator who shall be responsible for ensuring compliance with all requirements of any LOA issued pursuant to § 216.106 of this chapter and § 219.7 and for preparing for any subsequent request(s) for incidental take authorization.

(b) *Visual monitoring program:*

(1) Marine mammal visual monitoring must occur: Prior to deployment of beam, mid-water, and bottom trawl, bottom and pelagic longline, gillnet, fyke net, pot, trap, and rotary screw trap gear; throughout deployment of gear and active fishing of all research gears; and throughout retrieval of all research gear;

(2) Marine mammal watches must be conducted by watch-standers (those navigating the vessel and/or other crew) at all times when the vessel is being operated;

(3) NEFSC must monitor any potential disturbance of pinnipeds on ledges, paying particular attention to the distance at which different species of pinniped are disturbed. Disturbance must be recorded according to a three-point scale of response to disturbance; and

(4) The NEFSC must continue to conduct a local census of pinniped haulout areas prior to conducting any fisheries research in the Penobscot River estuary. The NEFSC's census reports must include an accounting of disturbance based on the three-point scale of response severity metrics.

(c) *Training:*

(1) NEFSC must conduct annual training for all chief scientists and other personnel (including its cooperating institutions, contracted vessels, or commercially-hired captains) who may be responsible for conducting dedicated marine mammal visual observations to explain mitigation measures and monitoring and reporting requirements,

mitigation and monitoring protocols, marine mammal identification, completion of datasheets, and use of equipment. NEFSC may determine the agenda for these trainings;

(2) NEFSC must also dedicate a portion of training to discussion of best professional judgment, including use in any incidents of marine mammal interaction and instructive examples where use of best professional judgment was determined to be successful or unsuccessful; and

(3) NEFSC must coordinate with NMFS' Southeast Fisheries Science Center (SEFSC) regarding surveys conducted in the southern portion of the Atlantic coast region, such that training and guidance related to handling procedures and data collection is consistent.

(d) *Handling procedures and data collection:*

(1) NEFSC must develop and implement standardized marine mammal handling, disentanglement, and data collection procedures. These standard procedures will be subject to approval by NMFS Office of Protected Resources (OPR);

(2) When practicable, for any marine mammal interaction involving the release of a live animal, NEFSC must collect necessary data to facilitate a serious injury determination;

(3) NEFSC must provide its relevant personnel with standard guidance and training regarding handling of marine mammals, including how to identify different species, bring/or not bring an individual aboard a vessel, assess the level of consciousness, remove fishing gear, return an individual to water, and log activities pertaining to the interaction; and

(4) NEFSC must record such data on standardized forms, which will be subject to approval by OPR. The data must be collected at a sufficient level of detail (*e.g.,* circumstances leading to the interaction, extent of injury, condition upon release) to facilitate serious injury determinations under the MMPA.

(e) *Reporting:*

(1) NEFSC must report all incidents of marine mammal interaction to NMFS' Protected Species Incidental Take database within 48 hours of occurrence; and

(2) NEFSC must provide written reports to OPR upon request following any marine mammal interaction (animal captured or entangled in research gear). In the event of a marine mammal interaction, these reports must include details of survey effort, full descriptions of any observations of the animals, the context (vessel and conditions), decisions made and rationale for decisions made in vessel and gear handling.

(3) The NEFSC must submit annual reports.

(i) The period of reporting will be one year beginning at the date of issuance of the LOA. NEFSC must submit an annual summary report to OPR not later than ninety days following the end of the reporting period.

(ii) These reports must contain, at minimum, the following:

(A) Annual line-kilometers surveyed during which the EK60, ME70, DSM300 (or equivalent sources) were predominant;

(B) Summary information regarding use of the following: All trawl gear, all longline gear, all gillnet gear, all dredge gear, fyke net gear, and rotary screw trap gear (including number of sets, hook hours, tows, and tending frequency specific to each gear type);

(C) Accounts of all incidents of marine mammal interactions, including circumstances of the event and descriptions of any mitigation procedures implemented or not implemented and why;

(D) Summary information from the pinniped haulout censuses in the and summary information related to any disturbance of pinnipeds, including event-specific total counts of animals present, counts of reactions according to a three-point scale of response severity, and distance of closest approach;

(E) A written evaluation of the effectiveness of NEFSC mitigation strategies in reducing the number of marine mammal interactions with survey gear, including best professional judgment and suggestions for changes to the mitigation strategies, if any;

(F) Final outcome of serious injury determinations for all incidents of marine mammal interactions where the animal(s) were released alive; and

(G) A summary of all relevant training provided by the NEFSC and any coordination with the NMFS Southeast Fishery Science Center, the Greater Atlantic Regional Fisheries Office, and the Southeast Regional Office.

(f) *Reporting of injured or dead marine mammals:*

(1) In the event that personnel involved in the survey activities covered by the authorization discover an injured or dead marine mammal, NEFSC must report the incident to OPR and to the appropriate Northeast Regional Stranding Coordinator as soon as feasible. 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.

(2) In the event of a ship strike of a marine mammal by any vessel involved in the activities covered by the authorization, SEFSC must report the incident to OPR and to the appropriate Northeast Regional Stranding Coordinator as soon as feasible. The report must include the following information:

(i) Time, date, and location (latitude/longitude) of the incident;

(ii) Species identification (if known) or description of the animal(s) involved;

(iii) Vessel's speed during and leading up to the incident;

(iv) Vessel's course/heading and what operations were being conducted (if applicable);

(v) Status of all sound sources in use;

(vi) Description of avoidance measures/requirements that were in place at the time of the strike and what additional measures were taken, if any, to avoid strike;

(vii) Environmental conditions (*e.g.,* wind speed and direction, Beaufort sea state, cloud cover, visibility) immediately preceding the strike;

(viii) Estimated size and length of animal that was struck;

(ix) Description of the behavior of the marine mammal immediately preceding and following the strike;

(x) If available, description of the presence and behavior of any other marine mammals immediately preceding the strike;

(xi) Estimated fate of the animal (*e.g.,* dead, injured but alive, injured and moving, blood or tissue observed in the water, status unknown, disappeared); and

(xii) To the extent practicable, photographs or video footage of the animal(s).

§ 219.37 Letters of Authorization.

(a) To incidentally take marine mammals pursuant to these regulations, NEFSC 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, NEFSC 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, NEFSC must apply for and obtain a modification of the LOA as described in § 219.38.

(e) The LOA must set forth:

(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 must 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 must be published in the **Federal Register** within thirty days of a determination.

§ 219.38 Renewals and modifications of Letters of Authorization.

(a) An LOA issued under § 216.106 of this chapter and § 219.37 for the activity identified in § 219.31(a) must be renewed or modified upon request by the applicant, provided that:

(1) The proposed 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 (excluding changes made pursuant to the adaptive management provision in paragraph (c)(1) of this section); and

(2) OPR determines that the mitigation, monitoring, and reporting measures required by the previous LOA under these regulations were implemented.

(b) For an LOA modification or renewal requests by the applicant that include changes to the activity or the mitigation, monitoring, or reporting (excluding changes made pursuant to the adaptive management provision in in paragraph (c)(1) of this section) 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), OPR 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 219.37 for the activity identified in § 219.31(a) may be modified by OPR under the following circumstances:

(1) OPR may modify (including augment) the existing mitigation, monitoring, or reporting measures (after consulting with NEFSC 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 an LOA:

(A) Results from NEFSC's monitoring from the previous year(s);

(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, OPR will publish a notice of proposed LOA in the **Federal Register** and solicit public comment.

(2) If OPR determines that an emergency exists that poses a significant risk to the well-being of the species or stocks of marine mammals specified in § 219.32(b), an 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.

§ 219.39–219.40 [Reserved]

[FR Doc. 2021–11188 Filed 6–3–21; 8:45 am]

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Federal Register

Vol. 86, No. 106

Friday, June 4, 2021

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The United States Government Manual	**741–6000**
Other Services	
Electronic and on-line services (voice)	**741–6020**
Privacy Act Compilation	**741–6050**

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FEDERAL REGISTER PAGES AND DATE, JUNE

29173–29482 1
29483–29674 2
29675–29928 3
29929–30130 4

CFR PARTS AFFECTED DURING JUNE

At the end of each month the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

2 CFR
1000 29483

3 CFR
Proclamations:
10218 29925
10219 29929
Executive Orders:
14031 29675
Administrative Orders:
Orders:
Order of May 28, 2021 29927

5 CFR
Ch. CII 29931

10 CFR
34 29173
Ch. I 29683
1061 29932
Proposed Rules:
429 29888
430 ..... 29704, 29888, 29954, 29964

12 CFR
204 29937
1026 29685

14 CFR
39 ..... 29176, 29178, 29181, 29183, 29185, 29187, 29483, 29486, 29939, 29942, 29944
71 ..... 29488, 29489, 29946
73 29687
97 ..... 29688, 29690
Proposed Rules:
39 ..... 29212, 29216, 29705, 29707
71 ..... 29530, 29531, 29967, 29969

15 CFR
732 29189
734 29189
744 29190

16 CFR
Proposed Rules:
305 29533

17 CFR
242 29195

18 CFR
37 29491
38 29491
154 29503
260 29503
284 29503

21 CFR
1308 29506

22 CFR
121 29196
123 29196
124 29196
126 29196
129 29196

29 CFR
1473 29196

30 CFR
723 29509
724 29509
845 29509
846 29509
Proposed Rules:
917 29709

31 CFR
525 29197

33 CFR
100 29691
117 29204
Proposed Rules:
100 29711
165 ..... 29725, 29727

39 CFR
Proposed Rules:
20 29732
111 29734

40 CFR
30 29515
51 29948
52 ..... 29205, 29517, 29520, 29948, 29949
78 29948
81 29522
97 29948
141 29526
180 29694
271 29207
372 29698
Proposed Rules:
52 ..... 29219, 29222, 29227
121 29541
174 29229
180 29229

42 CFR
405 29526
417 29526
422 29526
423 29526
455 29526
460 29526

47 CFR

64 29952
73 29702

Proposed Rules:

1 29735
2 29735
27 29735
64 29969

49 CFR

107 29528

50 CFR

622 29209
660 29210

Proposed Rules:

17 ..... 29432, 29975
18 29364
219 30080
660 29544
679 29977

LIST OF PUBLIC LAWS

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's **List of Public Laws**.

Last List May 27, 2021

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