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

## OFFICE OF PERSONNEL MANAGEMENT

### 5 CFR PART 335

RIN 3206-AN77

#### Promotion and Internal Placement

**AGENCY:** Office of Personnel Management.

**ACTION:** Final rule.

**SUMMARY:** The Office of Personnel Management (OPM) is issuing final regulations to give agencies, in individual hiring processes, the discretion to select and reinstate certain former Federal employees, to fill vacancies at any grade level or with promotion potential for which the individual is qualified, notwithstanding the grade of the position the individual had previously held on a permanent basis in the competitive service. An agency will be able to effectuate such reinstatements non-competitively, pursuant to a job opportunity announcement open to outside candidates, provided the former employee qualifies for the position as posted. The regulations will help agencies to recruit former Federal employees who have developed more enhanced or higher-level skill-sets than they had when they left government to apply for agency vacancies at grade levels appropriate to their current knowledge, skills, and abilities. Previously, an agency could reinstate an individual, without competition, only to a position at a grade level that was no higher than the grade level of a position the individual had held on a permanent basis in the competitive service. Reinstatement to a higher-graded position, or to a position with greater promotion potential, required competition. The intended effect of this hiring authority is to broaden the choices available to agencies when filling vacant positions and to promote a workforce in which individuals who have developed their competencies

through extended service in the Federal Government and individuals who have developed their competencies in the private or non-profit sectors can enhance each other's strengths by sharing knowledge and perspectives.

**DATES:** This rule is effective July 8, 2021.

**FOR FURTHER INFORMATION CONTACT:**

Michelle T. Glynn, Telephone: 202-606-1571, Fax: 202-606-3340, TDD: 202-418-3134, or email: [michelle.glynn@opm.gov](mailto:michelle.glynn@opm.gov).

**SUPPLEMENTARY INFORMATION:** On December 26, 2019, the Office of Personnel Management (OPM) published proposed regulations in the **Federal Register** at 84 FR 70906 to change the criteria for how an agency may reinstate certain former Federal employees to a position in the competitive service in part 335 of title 5, Code of Federal Regulations (CFR). OPM received 36 comments on the proposed rule: 20 from individuals, 11 from Federal agencies, 4 from professional associations, and 1 from a Federal employees' union ("the Federal Employees' Union").

Ten individuals, eight Federal agencies, and 2 professional associations expressed their general support for the proposed changes. Three Federal agencies recommended OPM place a limitation on the number of times an individual can be noncompetitively reinstated under this hiring authority. OPM is not adopting this suggestion because the purpose of this rule is to broaden choices for an agency seeking to fill a vacancy by enabling an agency to choose to reinstate a former employee, non-competitively, when such a former employee applies for the position and establishes qualifications at the appropriate level, and regardless of the grade or promotion potential of that employee's prior Federal position. Limitations on the number of times an individual could apply for a position through this reinstatement authority could act as a disincentive for individuals who have developed their knowledge, skills, and abilities through experiences outside of the Federal Government to attempt to return to Federal service. The Federal government can benefit when an employee leaves Federal service if the employee obtains new experiences in the private sector, the non-profit sector,

academia, or state and local government that enrich the knowledge, skills, and abilities of the employee. Facilitating the return to Government of people who have broadened their work experience in this way advances the civil service's goal of an effective and efficient government. Apart from providing the agency with additional choices in making selections for current vacancies, it enables agencies to build a workforce of individuals who bring a variety of knowledge, training, and experiences to their work. Accordingly, OPM seeks to remove barriers to reinstating Federal employees who have already competed for a Federal position once or who otherwise meet the service requirement for career tenure in accordance with 5 CFR 315.201 and reinstatement eligibility under 5 CFR 315.401, performed successfully, and subsequently gained valuable new skills and experiences when they apply to positions commensurate with their current level of qualification.

One commenter asked whether this rule waives the three-year time limit on reinstatement eligibility in 5 CFR 315.401(b) for individuals who did not complete the requirement for career tenure. OPM is not waiving the time limitations in 5 CFR 315.401(b). Former career-conditional employees are eligible for reinstatement for three years. Former career employees have lifetime eligibility for reinstatement.

Another individual commented that an employee who leaves an agency before completing 52 weeks at their current grade level should not be allowed to be reinstated after one year to a position at a higher grade level because the employee did not obtain all of the knowledge, skills, experience, and training at the lower grade to be eligible for work at the higher grade. OPM agrees, in part, with this comment, but it has already addressed through existing regulation. Individuals seeking reinstatement to a higher-graded position under this rule must meet time-in-grade (TIG) restrictions in accordance with 5 CFR part 300 subpart F; reinstatement is not an exclusion from TIG restriction per 5 CFR 315.603(b)(2). OPM disagrees with the commenter's belief that an individual could not meet the qualifications for higher-graded work if the requisite education or experience was obtained outside of Federal employment. OPM has



concluded that some individuals can and do acquire such skills and or experience from work with other employers. The proposed regulation acknowledges this possibility and provides that, when it arises, such former employees may apply for positions at higher levels, or with higher promotion potential, than the positions they previously held, and agencies may reinstate such individuals at that grade level, just as agencies do now when appointing other individuals from outside the agency's workforce who apply under other non-competitive hiring authorities (e.g., when agencies hire individuals under the non-competitive appointment of certain military spouses, or the non-competitive appointment of present and former Peace Corps personnel). OPM believes its rationale for this rule is sound: That individuals who have previously proven their ability to be successful in Federal employment over an extended period should be allowed to apply for vacant positions at the grade level for which they currently qualify, and agencies should be able to appoint them, non-competitively, through this expansion to the reinstatement provision. The presence of restrictions on the grade level to which an individual could be reinstated could serve as a disincentive for highly qualified individuals to apply for positions that would enable them to rejoin the Federal workforce.

Three Federal agencies and three individuals suggested OPM limit reinstatement under this provision to one grade level higher than the highest grade level an individual held. OPM is not adopting this suggestion because the intent of this rule is to allow individuals to be reinstated at any grade level for which a position is posted and for which the individual qualifies.

Four individuals, one professional association, one Federal agency, and the Federal Employees' Union stated this proposed rule should also apply to current Federal employees who have completed one year of service after a competitive appointment and were rated at least fully successful on their most recent performance appraisal. OPM cannot adopt this recommendation. Current Federal employees cannot be reinstated; reinstatement is a personnel action that applies to certain former federal employees. The scope of the proposed regulation concerned reinstatement of former Federal employees only.

Seven individuals, two Federal agencies, and the Federal Employees' Union commented that this hiring authority will be abused and questioned the fairness of allowing former Federal

employees to come back to Federal service at higher grade levels noncompetitively when current Federal employees must compete for higher grade levels. There are many safeguards built into this enhanced flexibility. This flexibility was proposed as a discretionary action under 5 CFR part 335. This means an agency may except reinstatement actions from the competitive procedures of part 335 but is not required to do so. Discretionary actions must be taken in accordance with the hiring agency's merit promotion plans pursuant to 5 CFR 335.103, and any collective bargaining agreements the hiring agency has in place. Before an agency may select a former employee and reinstate him or her to a position at a higher grade level or with higher promotion potential than the position the individual previously held, the agency must provide public notice through a job opportunity announcement, clear its Reemployment Priority List (RPL) as well as its Career Transition Assistance Plans (CTAP), and Interagency Career Transition Assistance Plans (ICTAP); consider applicants under the Veterans Employment Opportunities Act of 1998, as amended (VEOA), 5 U.S.C. 3304(f) and the Land Management Workforce Flexibilities Act, as applicable; and assess whether the individual meets all qualifications requirements for the position to which the individual is being reinstated. OPM will assess agency use of this flexibility as part of its on-going oversight work or will consider whether to conduct a specific evaluation of this flexibility after it has been in operation for a year, depending on how widely it is used. OPM's purpose in modifying its reinstatement regulation is to expand agency choice by permitting an agency to select and reinstate into Government former successful Federal employees who have obtained new knowledge, skills, and abilities from outside government that qualifies them for the positions posted. An agency may also consider and select from among candidates who qualified through the normal progression through established steps and grades and the agency's merit promotion program. OPM believes that permitting these choices will enhance the quality of hiring, and thus Government, generally, and enable agencies to exploit knowledge, skills, and abilities acquired and developed both within and outside the Federal sector, enhancing diversity of thought and methods and enriching the workforce. In that scenario, the Federal government recoups the value of the training and development

invested in the employee when he or she was previously in Federal service and recoups the benefit of the additional training and development the person received while working outside of government. It can be a benefit for Federal workers to gain new perspectives on how to best deliver agency missions from jobs outside of government, and OPM seeks to facilitate agencies' ability to pursue that benefit by permitting them to select former Federal employees non-competitively, when they qualify for posted positions, even if the grade level of or promotion potential for the position exceeds the grade the former employee previously held.

Seven individuals, two Federal agencies and the Federal Employees' Union state the changes will discourage current Federal employees, if someone is hired noncompetitively, because current Federal employees do not have the same opportunity to compete for a higher graded position; they believe this hiring will be abused. It is more accurate to view the two methods of qualifying for selection as counterparts for two different groups of people with prior experience in Government. Both former successful Federal employees and current successful employees will have the ability to qualify and be selected through methods that recognize the knowledge, skills, and abilities they have acquired, though through different paths. We also note that an agency that ultimately reinstates an individual to a higher grade level or with greater promotion potential, using this authority, must first have complied with public notice requirements, met CTAP/ICTAP procedures, considered other candidates from outside their agency pursuant to the VEOA and Land Management requirements; assessed that the individual met all qualifications requirements; and concluded that the former employee was the candidate with the highest relative level of knowledge, skills, and experience, in accordance with the Merit Systems Principles. As previously noted, OPM believes these safeguards are adequate to protect this discretionary flexibility from abuse. OPM will assess agency use of this flexibility as part of its on-going oversight work or consider whether to conduct a specific evaluation of this flexibility after it has been in operation for a year, depending on how widely it is used. This proposal also does not eliminate an agency's discretion to limit the area of consideration to agency employees when filling positions. We are simply providing a new option for agencies that expands choices and

reflects the fact that employees who have moved to jobs outside government to develop their abilities may wish to come back to Federal service in a position that makes good use of newly acquired skills. Agencies may lose out on such candidates if their only means of re-entry continues to be to return to a position at the last grade they occupied or apply again through the sort of open competitive examination that they underwent when they originally entered Government service.

Two individuals and 3 Federal agencies questioned OPM's assertion that former employees actually acquire skills or experience in private industry that would qualify them for non-competitive appointment to higher graded positions under this rule. In addition, these commenters stated OPM's argument is not substantive and lacks merit and logic. OPM is not asserting that all former employees will have acquired the sorts of skills or experience in the private sector that would qualify them for appointment to higher-graded positions than the positions in the Government they previously held, or that they will necessarily be among the best candidates for the position. OPM simply recognizes that some individuals may, in fact, acquire such skills and or experience. If they, do, the proposed rule provides agencies the flexibility to select and reinstate such individuals in hiring processes for particular positions, at the grade level for which those individuals qualify, just as agencies may appoint other individuals from outside of the agency's workforce at a grade level appropriate to their knowledge, skills, and abilities. OPM believes its rationale for this rule is sound: That permitting individual agencies to appoint a former successful Federal employee at a grade level for which the employee qualifies, benefits Government, by attracting former employees who have obtained important new knowledge, skills, and abilities from outside of government and thus enhancing the choices available to the agency under the Merit System Principles. For example, the an agency could secure a huge benefit if an individual was first hired into an entry-level position through a normal competitive process, spent several years with the agency learning about a program and obtaining valuable training and development, then went to private industry to experience the impact of the program first hand, then went to a state government to become a program manager of a similar state program, and now wants to return to her original

agency as a program manager for the Federal program. There is value in facilitating an agency's ability to select such an individual, in a particular hiring action, through a non-competitive process. The presence of restrictions on the grade level to which an individual may be reinstated currently serves as a disincentive for individuals to consider rejoining the Federal workforce.

One individual commented that the proposed rule is not in the best interest of the American people. OPM disagrees. First, we note that the proposed rule is a discretionary action but used requires: The applicant to be reinstatement eligible, meet time-in-grade requirements, and meet all qualifications requirements needed for the position the individual is seeking. It also requires the agency to adhere to the Merit System Principles when using this authority. Because of these safeguards, OPM believes the proposed language is in the public interest; it provides wider choice to agencies by encouraging qualified former employees to apply, thereby enhancing merit.

One Federal agency commented that the language at the new proposed paragraph 335.103(c)(3)(viii) does not clearly emphasize that these enhanced skills/experiences were obtained in the private sector. The comment is ambiguous; OPM interprets it to mean, "Proposed paragraph 335.103(c)(3)(viii) does not clearly emphasize that these enhanced skills/experience, putatively gained in the private sector, were *actually acquired*." When using this authority, a hiring agency must determine, based on an assessment of all of the pertinent skills, abilities and experience the applicant possesses, that the applicant possesses the qualifications required for the position to which he or she has applied and the agency is seeking to fill, including the grade level at which the agency intends to fill it. Reinstatement is available only if the agency determines the applicant does possess such qualifications. If the agency determines the applicant is qualified, for example, for a higher grade than that of the position the applicant had in a prior federal job, this rule rules allows the agency the discretion to appoint the applicant at that level, notwithstanding the grade of the position the applicant previously occupied.

One Federal agency suggested OPM provide an exception to ICTAP under this hiring authority. OPM is not adopting this suggestion. The purpose of ICTAP is to restore employees who were involuntarily separated to comparable positions for which they are deemed to be well-qualified. In other words, ICTAP

is a means to 'make an employee whole' whose career was disrupted through no fault (or action) of that employee. An exception to ICTAP would vacate the selection priority that ICTAP eligible individuals would otherwise have when applying for positions.

One Federal agency suggested OPM include a statement that former employees who received a Voluntary Separation Incentive Payment (VSIP) must repay the VSIP if rehired under this rule. OPM is not adopting this recommendation because VSIP repayment provisions already exist at 5 CFR part 576 subpart B. Agencies must ensure that any hiring action is made in accordance with 5 CFR 576 subpart B regardless of the authority under which the individual is being appointed.

An individual asked what research OPM conducted to support the claim that the proposed rule would "benefit" both agencies as well as individuals seeking reemployment with the government. OPM believes the benefits to agencies to be self-evident: The regulation will provide greater choice to agencies, and provide an ability to recruit back to Government former Federal employees who have developed enhanced or higher-level skillsets than they had when they left government.

This proposed regulation is part of OPM's on-going efforts to provide tools to help agencies attract and retain the talent they need to carry out their mission requirements.

One individual and three Federal agencies asked OPM to clarify the phrase "most recent" in the context of using the performance rating from an individual's last Federal appointment. These commenters also asked that OPM explain the value of relying on the most recent performance rating if the former employee has been out of Federal service for many years. The term "most recent" means the last Federal rating of record under 5 CFR part 430 an individual received from his or her last career or career-conditional position. The value of using a former employee's most recent (*i.e.*, last) rating of record under 5 CFR part 430 for these purposes is to ensure the individual was performing to expectations at the time he or she left Federal service and to provide consistency with other requirements for career advancement in the competitive service. Under 5 CFR 335.104, performance is an important factor for advancement to a higher grade level. Typically, agencies consider an individual's performance during the rating cycle that precedes the personnel action to be taken or the most recent rating of record. This is especially so for appointments (including

reinstatements) or promotions to higher grades. Absence of this requirement for this noncompetitive appointment by reinstatement would create unnecessary disparate treatment among individuals vying for the same position.

Two Federal agencies suggested OPM eliminate the proposed requirement that an individual must have received a rating of record of Fully Successful to be eligible under these rules. These agencies suggested that OPM replace this requirement with consideration of an individual's entire Federal employment record. OPM is not adopting this suggestion. The requirement that an individual must have a rating of record under 5 CFR part 430 aligns with 5 CFR 335.104, thus providing consistency and fairness with respect to Federal employees vying for the same position through career ladder promotions. An individual whose last rating was not fully successful or its equivalent may still compete for Federal positions under normal competitive processes.

Four Federal agencies stated there are inconsistencies by using the word "if" at 335.103(c)(1)(vi) and the word "provided" at 335.103(c)(3)(viii) and recommends changing and use the same word in both places for consistency. OPM disagrees. Section 335.103(c)(1)(vi) originally said that an agency must apply competitive procedures to reinstatement at a higher grade level or with more promotion potential. This rule added the phrase "if" the individual did not wait at least a year to reapply or did not have a most recent rating of record of Fully Successful or above. 335.103(c)(3)(viii) is a new section that provides that an agency may except from competitive procedures reinstatement of an employee at a higher grade level or with more promotion potential, "provided" that the employee has waited at least a year and has a most recent rating of record of Fully Successful or above. Thus, the two provisions are not parallel. "If" connotes "on the condition that" and "provided" connotes "as long as". As a result, OPM is not adopting this suggestion.

Three Federal agencies recommend OPM also allow individuals separated "involuntarily" due to reduction in force (RIF), or recovered after disability retirement or medical inability to be eligible under these rules. OPM agrees these provisions should apply to individuals who are separated involuntarily as a result of a RIF. We have modified proposed § 335.103(c)(3)(viii) by removing the word "voluntary" in this section. This change extends eligibility to any

individual who is separated for at least 1 year before being reinstated and has a rating of record for his or her most recent career or career-conditional position of at least Fully Successful (or equivalent). Individuals returning to work after disability retirement must be qualified for higher-graded work the same as anyone else and may be subject to any requirements pertaining to reemployed annuitants and/or provisions affecting their retirement payments in accordance with 5 U.S.C. 8837(d) and 5 U.S.C. 8455(a), and the corresponding implementing provisions at 5 CFR parts 831 and 843. OPM is not adopting the suggestion to include individuals who recovered after medical inability because regulations at 5 CFR part 353 subpart C address restoring an individual to duty after compensable injury or illness.

Seven individuals, four Federal agencies, one professional organization and the Federal Employees' Union believe this proposal is contrary to Merit System Principles and deprives certain bargaining unit employees of their collectively bargained right to first consideration. OPM disagrees these rules are contrary to Merit System Principles. These rules allow an agency (at its own discretion) to consider an individual who has previously succeeded as a Federal employee and achieved career status at the grade level for which the individual currently qualifies through a non-competitive process. The rules do not require an agency to use this authority or to hire any particular individual. Agencies must still adhere to their merit promotion plans and Merit Systems Principles in making hiring decisions under this authority. An agency could require competition under 5 CFR 335, Promotion and Internal Placement, if the agency chose to do so. OPM also disagrees that this proposal will deprive employees of any rights those employees may have pursuant to their agency's collective bargaining agreement (CBA). As to any right of first consideration, making selections for a position from any appropriate source is a management right. 5 U.S.C. 7106(a)(2)(C)(ii). It would abrogate that management right to require an agency to limit a selection to bargaining unit employees. However, whether a currently applicable collective-bargaining provision relating to "first consideration" of bargaining-unit employees is negotiable and therefore enforceable is a case-by-case determination to be adjudicated by the FLRA and the courts. OPM expresses no views concerning any particular

proposal or provision. In addition, the final rule merely allows agencies additional flexibility to rehire former federal employees but does not require them to do so. Thus, we do not agree that the final rule will inevitably deprive bargaining unit employees of first consideration in accordance with law. We note that any hiring mechanism or authority that permits or requires agencies to consider candidates from outside the agency's existing workforce can impact the ability for a current employee to advance to a higher graded position, but, in this case, the changes will benefit the effectiveness and efficiency of Government and further Merit System Principles, by enhancing choices.

One Federal agency requested that OPM clarify whether applicants eligible under these rules could be eligible for the superior qualifications pay-setting authority, and, if so, how an individual would meet these requirements. Agencies may use superior qualifications pay-setting authority (which is not a hiring authority) to set the rate of basic pay upon the first appointment as a civilian employee of the Federal government or for reappointment to a GS position after a break in service of 90-days or more, as stated at 5 CFR 531. The mechanics of how to apply this pay flexibility are beyond the scope of the proposed rule. Agencies interested in using the superior qualifications pay authority should refer to 5 CFR 531.212 as well as OPM's Pay Administration guidance at <https://www.opm.gov/policy-data-oversight/pay-leave/pay-administration/fact-sheets/superior-qualifications-and-special-needs-pay-setting-authority>.

One individual asked OPM to clarify how positions filled using this flexibility will be advertised or otherwise made available to job-seekers. Reinstatement actions made under these rules are subject to public notice requirements in accordance with 5 U.S.C. 3327 and 3330 as well as the provisions for selection priority for displaced Federal employees. This means agencies are required to post any vacant positions they may fill through reinstatement on the USAJOBS website ([www.usajobs.gov](http://www.usajobs.gov)). Applicants should visit the USAJOBS website for information about positions for which they may be interested in applying.

One agency recommended OPM address the parameters for using this reinstatement hiring flexibility to ensure compliance with merit system principles and address how OPM oversight will be conducted. Use of this hiring authority is discretionary on the part of agencies. When using this

authority agencies are required to assess an applicant's qualifications for the position being filled and avoid relying on prohibited considerations in making selections in the same manner as they would when making any other appointment.

A professional executive association suggested OPM develop a legislative proposal to further cement the goals of this regulation. Further legislation is not necessary; 5 U.S.C. 3301 and 3302 provides the President the statutory authority to craft rules governing competitive status, career tenure, and discretion in hiring. The President delegated much of his authority to OPM through presidential Civil Service Rules, see, especially, 5 CFR 2.2, and provided in Rule VII, 5 CFR 7.1, that agencies have discretion to fill positions in the competitive service by competitive appointment or by noncompetitive selection of a present or former Federal employee.

Two of the comments we received were beyond the scope of the proposed changes. One individual could not locate a copy of the proposed regulation on the *regulations.gov* website. The other commenter recommended OPM re-evaluate the 40-hour basic work week.

OPM is making two clarifying changes to the final rule which commenters did not address. We have added references to Civil Service Rules II and VII in the "authority" listing which are OPM's authority, pursuant to the President's delegation of his own authority under 5 U.S.C. 3301 and 3302, to establish and administer a system that provides for career appointments for former employees eligible for career appointment upon reinstatement, and agencies' authority to select for positions in the competitive service by competitive appointment or by noncompetitive selection of a present or former Federal employee.

OPM has modified the wording in 5 CFR 335.103(c)(3)(viii) by inserting the words, "before applying for reinstatement," to parallel the language used in 5 CFR 335.103(c)(1)(vi).

#### Regulatory Flexibility Act

I certify that this regulation will not have a significant impact on a substantial number of small entities because it applies only to Federal agencies and employees.

#### E.O. 13563 and E.O. 12866, Regulatory Review

Executive Orders 13563 and 12866 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is

necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This rule is not a "significant regulatory action," under Executive Order 12866 and was not reviewed by OMB.

#### E.O. 13132, Federalism

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

#### E.O. 12988, Civil Justice Reform

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

#### Unfunded Mandates Reform Act of 1995

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

#### Congressional Review Act

This action pertains to agency management, personnel and organization and does not substantially affect the rights or obligations of nonagency parties and, accordingly, is not a "rule" as that term is used by the Congressional Review Act (Subtitle E of the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA)). Therefore, the reporting requirement of 5 U.S.C. 801 does not apply.

#### Paperwork Reduction Act

This rule does not impose any new reporting or record-keeping requirements subject to the Paperwork Reduction Act.

#### List of Subjects in 5 CFR Part 335

Government employees.

Office of Personnel Management  
Alexys Stanley,  
Regulatory Affairs Analyst.

Accordingly, OPM is amending 5 CFR part 335 as follows:

\* \* \* \* \*

#### PART 335—PROMOTION AND INTERNAL PLACEMENT

■ 1. The authority citation for part 335 is revised to read as follows:

**Authority:** 5 U.S.C. 2301, 2302, 3301, 3302, 3330; E.O. 10577, E.O. 11478, 3 CFR 1966–1970, Comp., page 803, unless otherwise noted, E.O. 13087; and E.O. 13152, 3 CFR 19554–58 Comp., p.218; 5 U.S.C. 3304(f), and Pub. L. 106–117, and 5 CFR 2.2 and 7.1.

#### Subpart A—General Provisions

■ 2. In § 335.103, revise paragraph (c)(1)(vi) and add paragraph (c)(3)(viii) to read as follows:

#### § 335.103 Agency promotion programs.

\* \* \* \* \*

(c) \* \* \*

(1) \* \* \*

(vi) Reinstatement to a permanent or temporary position at a higher grade or with more promotion potential than a position previously held on a permanent basis in the competitive service if the individual did not wait 1 year or more after separating from Federal employment before applying for reinstatement, or did not receive a rating of record for his or her most recent career or career-conditional position of at least Fully Successful (or equivalent).

\* \* \* \* \*

(3) \* \* \*

(viii) Reinstatement in accordance with 5 CFR part 315 to any position in the competitive service for which the individual is qualified at a higher grade level or with more promotion potential than a career or career-conditional position previously held by the individual; provided: The individual has been separated for at least one year before applying for reinstatement, and the individual must have received a rating of record for his or her most recent career or career-conditional position of at least Fully Successful (or equivalent).

\* \* \* \* \*

[FR Doc. 2021–11894 Filed 6–7–21; 8:45 am]

BILLING CODE 6325–39–P

**DEPARTMENT OF TRANSPORTATION****Federal Aviation Administration****14 CFR Part 39**

[Docket No. FAA-2021-0129; Project Identifier AD-2020-01597-E; Amendment 39-21577; AD 2021-11-15]

RIN 2120-AA64

**Airworthiness Directives; International Aero Engines AG Turbofan Engines**

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Final rule.

**SUMMARY:** The FAA is adopting a new airworthiness directive (AD) for certain International Aero Engines AG (IAE) V2500 model turbofan engines. This AD was prompted by an analysis performed by the manufacturer after an event involving an uncontained failure of a high-pressure turbine (HPT) 1st-stage disk that resulted in high-energy debris penetrating the engine cowling. This AD requires the performance of an ultrasonic inspection (USI) of the HPT 1st-stage disk and HPT 2nd-stage disk and, depending on the results of the inspections, replacement of the HPT 1st-stage disk or HPT 2nd-stage disk. The FAA is issuing this AD to address the unsafe condition on these products.

**DATES:** This AD is effective July 13, 2021.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in this AD as of July 13, 2021.

**ADDRESSES:** For service information identified in this final rule, contact International Aero Engines AG, 400 Main Street, East Hartford, CT 06118; phone: (800) 565-0140; email: [help24@pw.utc.com](mailto:help24@pw.utc.com); website: <http://fleetcare.pw.utc.com>. You may view this service information at the FAA, Airworthiness Products Section, Operational Safety Branch, 1200 District Avenue, Burlington, MA 01803. For information on the availability of this material at the FAA, call (781) 238-7759. It is also available at <https://www.regulations.gov> by searching for and locating Docket No. FAA-2021-0129.

**Examining the AD Docket**

You may examine the AD docket at <https://www.regulations.gov> by searching for and locating Docket No. FAA-2021-0129; 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:** Nicholas Paine, Aviation Safety Engineer, ECO Branch, FAA, 1200 District Avenue, Burlington, MA 01803; phone: (781) 238-7742; fax: (781) 238-7199; email: [nicholas.j.paine@faa.gov](mailto:nicholas.j.paine@faa.gov).

**SUPPLEMENTARY INFORMATION:****Background**

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to certain IAE V2522-A5, V2524-A5, V2525-D5, V2527-A5, V2527E-A5, V2527M-A5, V2528-D5, V2530-A5, V2531-E5, and V2533-A5 model turbofan engines. The NPRM published in the **Federal Register** on March 8, 2021 (86 FR 13225). The NPRM was prompted by an event involving an uncontained failure of an HPT 1st-stage disk that resulted in high-energy debris penetrating the engine cowling. On March 18, 2020, an Airbus Model A321-231 airplane, powered by IAE V2533-A5 model turbofan engines, experienced an uncontained HPT 1st-stage disk failure that resulted in an aborted takeoff. The uncontained failure of the HPT 1st-stage disk resulted in high-energy debris penetrating the engine cowling. The FAA published Emergency AD 2020-07-51 on March 21, 2020 (followed by publication in the **Federal Register** on April 13, 2020, as a Final Rule, Request for Comments (85 FR 20402)) and AD 2021-01-03 on January 6, 2021 (86 FR 458), to remove from service HPT 1st-stage and HPT 2nd-stage disks identified as having the highest risk of failure. Based on the root cause analysis performed since that event, the manufacturer identified a population of HPT 1st-stage disks and HPT 2nd-stage disks that require inspection and possible removal from service. In the NPRM, the FAA proposed to require the performance of a USI of the HPT 1st-stage disk and HPT 2nd-stage disk and, depending on the results of the inspections, replacement of the HPT 1st-stage disk or HPT 2nd-stage disk. The FAA is issuing this AD to address the unsafe condition on these products.

**Discussion of Final Airworthiness Directive***Comments*

The FAA received comments from three commenters. The commenters were Cathay Pacific Airways (Cathay),

IAE, and an individual commenter. One commenter requested clarification on the compliance time for inspection. Another commenter requested clarification regarding additional inspections that are needed when parts are removed for piece part inspections. One commenter requested clarification regarding the definition of a part eligible for installation as well as the installation prohibition. An individual commenter supported the proposal without change. The following presents the comments received on the NPRM and the FAA's response to each comment.

**Request To Clarify USI Interval for Different Thrust Ratings**

Cathay asked for clarification of the interval for performing the USI for any HPT 1st-stage disk or HPT 2nd-stage disk that has operated in different thrust ratings, such as from 27K to 33K, or 33K to 27K. Cathay reasoned that during the IAE V2500 Customer Council Call in December 2020, IAE used thrust ratings to indicate when to perform the inspections of the HPT 1st-stage disk or HPT 2nd-stage disk.

The FAA reviewed IAE Non-Modification Service Bulletin (NMSB) No. V2500-ENG-72-0713, Revision 1, dated January 26, 2021 (IAE NMSB V2500-ENG-72-0713, Revision 1). This revised NMSB was published after the IAE V2500 Customer Council Call in December 2020. The revised NMSB removed references to thrust ratings in the Compliance section. Therefore, this AD does not distinguish inspection intervals based on thrust ratings.

**Request To Clarify Piece-Part Opportunity Inspection Requirements**

IAE requested clarification on whether an HPT 1st-stage disk and HPT 2nd-stage disk with fewer than 100 flight cycles (FCs) since the last piece-part fluorescent penetrant inspection (FPI) need to undergo another FPI if the same parts were removed for the piece-part opportunity USI in accordance with IAE NMSB V2500-ENG-72-0713, Revision 1. IAE reasoned that the V2500 Maintenance Scheduling section of the Airworthiness Limitations Section (ALS) requires an FPI at each piece-part opportunity.

The FAA clarifies that when an HPT 1st-stage disk or an HPT 2nd-stage disk is removed for piece-part inspection, the ALS of the manufacturer's Instructions for Continued Airworthiness may require additional inspections not required by this AD. The FAA refers the commenter to the ALS, which indicates that additional inspections are not required unless the part has more than

100 FCs since the last piece-part opportunity inspection, is damaged, or is the cause for the removal of the engine. Engine removal for the purposes of complying with this AD is not “cause” for engine removal as stated in the ALS. The FAA added a note to paragraph (g)(1) of this AD to clarify piece-part inspection requirements.

**Request To Define Part Eligible for Installation**

Cathay requested that the FAA define “part eligible for installation” in this AD.

The FAA agrees and added a definition of a “part eligible for installation” in this AD.

**Request To Clarify Prohibition on Installation of Parts**

Cathay asked if there is a prohibition on the installation of parts in this AD.

The FAA notes that if a HPT 1st-stage disk or HPT 2nd-stage disk does not pass the inspection required by paragraphs (g)(1) through (6) of this AD, the HPT 1st-stage disk or 2nd-stage disk, as applicable, must be removed from service. Any HPT 1st-stage disk or 2nd-

stage disk that passes the inspection is eligible for installation. As noted in an earlier comment response, the FAA added the definition of a “part eligible for installation” in this AD, which includes this clarification.

**Support for the AD**

An individual commenter expressed support for the AD as written.

**Conclusion**

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

**Related Service Information Under 1 CFR Part 51**

The FAA reviewed IAE NMSB No. V2500-ENG-72-0713, Revision 1, dated January 26, 2021. The NMSB identifies

the affected HPT 1st-stage disks and HPT 2nd-stage disks on IAE V2522-A5, V2524-A5, V2525-D5, V2527-A5, V2527E-A5, V2527M-A5, V2528-D5, V2530-A5, and V2533-A5 model turbofan engines and specifies procedures for a USI of the HPT 1st-stage disk and HPT 2nd-stage disk.

The FAA also reviewed IAE NMSB No. V2500-E5-72-0015, dated December 15, 2020. The NMSB identifies the affected HPT 1st-stage disks and HPT 2nd-stage disks on IAE V2531-E5 model turbofan engines and specifies procedures for a USI of the HPT 1st-stage disk and HPT 2nd-stage disk.

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

**Costs of Compliance**

The FAA estimates that this AD affects 1,100 engines installed on airplanes of U.S. registry.

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

**ESTIMATED COSTS**

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
USI the HPT 1st-stage disk and HPT 2nd-stage disk.	20 work-hours × \$85 per hour = \$1,700 .....	\$0	\$1,700	\$1,870,000

The FAA estimates the following costs to do any necessary replacement that would be required based on the

results of the inspection. The agency has no way of determining the number of

aircraft that might need this replacement:

**ON-CONDITION COSTS**

Action	Labor cost	Parts cost	Cost per product
Replace the HPT 1st-stage disk or HPT 2nd-stage disk.	0 work-hours × \$85 per hour = \$0 .....	\$300,000	\$300,000

The FAA has included all known costs in its cost estimate. According to the manufacturer, however, some of the costs of this AD may be covered under warranty, thereby reducing the cost impact on affected individuals.

**Authority for This Rulemaking**

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

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

**Regulatory Findings**

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

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

- (1) Is not a “significant regulatory action” under Executive Order 12866,
- (2) Will not affect intrastate aviation in Alaska, and

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

#### List of Subjects in 14 CFR Part 39

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

#### The Amendment

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

### PART 39—AIRWORTHINESS DIRECTIVES

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

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

#### § 39.13 [Amended]

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

#### 2021–11–15 International Aero Engines

AG: Amendment 39–21577; Docket No. FAA–2021–0129; Project Identifier AD–2020–01597–E.

##### (a) Effective Date

This airworthiness directive (AD) is effective July 13, 2021.

##### (b) Affected ADs

None.

##### (c) Applicability

This AD applies to International Aero Engines AG (IAE) V2522–A5, V2524–A5, V2525–D5, V2527–A5, V2527E–A5, V2527M–A5, V2528–D5, V2530–A5, V2531–E5, and V2533–A5 model turbofan engines with an installed:

(1) High-pressure turbine (HPT) 1st-stage disk, part number (P/N) 2A5001, with a serial number (S/N) listed in Appendix A, Table 1, of IAE Non-Modification Service Bulletin (NMSB) No. V2500–ENG–72–0713, Revision 1, dated January 26, 2021 (IAE NMSB V2500–ENG–72–0713, Revision 1) or IAE NMSB No. V2500–E5–72–0015, dated December 15, 2020 (IAE NMSB V2500–E5–72–0015); and/or

(2) HPT 2nd-stage disk, P/N 2A4802, with an S/N listed in Appendix A, Table 2, of IAE NMSB V2500–ENG–72–0713, Revision 1, or IAE NMSB V2500–E5–72–0015.

##### (d) Subject

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

##### (e) Unsafe Condition

This AD was prompted by an analysis performed by the manufacturer after an event involving an uncontained failure of a HPT 1st-stage disk that resulted in high-energy debris penetrating the engine cowling. The FAA is issuing this AD to prevent failure of the HPT 1st-stage disk and HPT 2nd-stage

disk. The unsafe condition, if not addressed, could result in uncontained HPT disk failure, damage to the engine, damage to the airplane, and loss of the airplane.

##### (f) Compliance

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

##### (g) Required Actions

(1) For IAE V2527E–A5, V2527M–A5, V2528–D5, V2530–A5, and V2533–A5 model turbofan engines with an HPT 1st-stage disk, P/N 2A5001, with an S/N listed in Appendix A, Table 1, of IAE NMSB V2500–ENG–72–0713, Revision 1, at the next engine shop visit after the effective date of this AD or before the HPT 1st-stage disk has accumulated 3,200 flight cycles (FCs) since the effective date of this AD, whichever occurs first, perform an ultrasonic inspection (USI) of the HPT 1st-stage disk using the Accomplishment Instructions, paragraph 6, of IAE NMSB V2500–ENG–72–0713, Revision 1.

**Note 1 to paragraph (g)(1):** The USI required by paragraphs (g)(1) through (6) of this AD requires the HPT 1st-stage disk and HPT 2nd-stage disks to be removed from the engine allowing piece-part opportunity inspections. Per the Airworthiness Limitations Section of the manufacturer's Instructions for Continued Airworthiness (ICAs), the additional inspections are not required unless the part has more than 100 FCs since the last piece-part opportunity inspection, is damaged, or is the cause for the removal of the engine. Engine removal for the purpose of complying with this AD is not "cause" for removal as stated in the ALS.

(2) For IAE V2527E–A5, V2527M–A5, V2528–D5, V2530–A5, and V2533–A5 model turbofan engines with an HPT 2nd-stage disk, P/N 2A4802, with an S/N listed in Appendix A, Table 2, of IAE NMSB V2500–ENG–72–0713, Revision 1, at the next engine shop visit after the effective date of this AD or before the HPT 2nd-stage disk has accumulated 3,200 FCs since the effective date of this AD, whichever occurs first, perform a USI of the HPT 2nd-stage disk using the Accomplishment Instructions, paragraph 7, of IAE NMSB V2500–ENG–72–0713, Revision 1.

(3) For IAE V2522–A5, V2524–A5, V2525–D5, and V2527–A5 model turbofan engines with an HPT 1st-stage disk, P/N 2A5001, with an S/N listed in Appendix A, Table 1, of IAE NMSB V2500–ENG–72–0713, Revision 1, at the next HPT rotor and stator assembly (HPT module) removal or before the HPT 1st-stage disk has accumulated 6,700 FCs since the effective date of this AD, whichever occurs first, perform a USI of the HPT 1st-stage disk using the Accomplishment Instructions, paragraph 6, of IAE NMSB V2500–ENG–72–0713, Revision 1.

(4) For IAE V2522–A5, V2524–A5, V2525–D5, and V2527–A5 model turbofan engines with an HPT 2nd-stage disk, P/N 2A4802, with an S/N listed in Appendix A, Table 2, of IAE NMSB V2500–ENG–72–0713, Revision 1, at the next HPT module removal or before the HPT 2nd-stage disk has

accumulated 6,700 FCs since the effective date of this AD, whichever occurs first, perform a USI of the HPT 2nd-stage disk using the Accomplishment Instructions, paragraph 7, of IAE NMSB V2500–ENG–72–0713, Revision 1.

(5) For IAE V2531–E5 model turbofan engines with an HPT 1st-stage disk, P/N 2A5001, with an S/N listed in Appendix A, Table 1, of IAE NMSB V2500–E5–72–0015, at the next engine shop visit or before the HPT 1st-stage disk has accumulated 3,200 FCs since the effective date of this AD, whichever occurs first, perform a USI of the HPT 1st-stage disk using the Accomplishment Instructions, paragraph 6, of IAE NMSB V2500–E5–72–0015.

(6) For IAE V2531–E5 model turbofan engines with an HPT 2nd-stage disk, P/N 2A4802, with an S/N listed in Appendix A, Table 2, of IAE NMSB V2500–E5–72–0015, at the next engine shop visit or before the HPT 2nd-stage disk has accumulated 3,200 FCs since the effective date of this AD, whichever occurs first, perform a USI of the HPT 2nd-stage disk using the Accomplishment Instructions, paragraph 7, of IAE NMSB V2500–E5–72–0015.

(7) If, during the USI required by paragraphs (g)(1) through (6) of this AD, a HPT 1st-stage disk or HPT 2nd-stage disk does not pass the inspection as specified in the Accomplishment Instructions, paragraph 8., of IAE NMSB V2500–ENG–72–0713, Revision 1, or IAE NMSB V2500–E5–72–0015, as applicable, before further flight, remove the HPT 1st-stage disk or 2nd-stage disk, as applicable, from service and replace with a part eligible for installation.

##### (h) Definition

(1) For the purpose of this AD, an "engine shop visit" is the induction of an engine into the shop for maintenance involving the separation of pairs of major mating engine flanges, H–P, except for the following situations, which do not constitute an engine shop visit.

(i) Separation of engine flanges solely for the purposes of transportation without subsequent engine maintenance.

(ii) Engine removal for the purpose of performing field maintenance activities at a maintenance facility in lieu of performing them on-wing.

(2) For the purpose for this AD, a "part eligible for installation" is:

(i) An HPT 1st-stage disk or HPT 2nd-stage disk listed in Appendix A, Tables 1 and 2, of IAE NMSB V2500–ENG–72–0713, Revision 1, or Appendix A, Tables 1 and 2, of IAE NMSB V2500–E5–72–0015, that passed the USI required by paragraphs (g)(1) through (6) of this AD; or

(ii) An HPT 1st-stage disk or HPT 2nd-stage disk that is not listed in Appendix A, Tables 1 and 2, of IAE NMSB V2500–ENG–72–0713, Revision 1, or Appendix A, Tables 1 and 2, of IAE NMSB V2500–E5–72–0015.

##### (i) Alternative Methods of Compliance (AMOCs)

(1) The Manager, ECO Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19,



send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the manager of the certification office, send it to the attention of the person identified in Related Information. You may email your request to: [ANE-AD-AMOC@faa.gov](mailto:ANE-AD-AMOC@faa.gov).

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

#### (j) Related Information

For more information about this AD, contact Nicholas Paine, Aviation Safety Engineer, ECO Branch, FAA, 1200 District Avenue, Burlington, MA 01803; phone: (781) 238-7742; fax: (781) 238-7199; email: [nicholas.j.paine@faa.gov](mailto:nicholas.j.paine@faa.gov).

#### (k) Material Incorporated by Reference

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

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

(i) International Aero Engines (IAE) Non-Modification Service Bulletin (NMSB) No. V2500-ENG-72-0713, Revision 1, dated January 26, 2021.

(ii) IAE NMSB No. V2500-E5-72-0015, dated December 15, 2020.

(3) For IAE service information identified in this AD, contact International Aero Engines AG, 400 Main Street, East Hartford, CT 06118; phone: (800) 565-0140; email: [help24@pw.utc.com](mailto:help24@pw.utc.com); website: <http://fleetcare.pw.utc.com>.

(4) You may view this service information at FAA, Airworthiness Products Section, Operational Safety Branch, 1200 District Avenue, Burlington, MA 01803. For information on the availability of this material at the FAA, call (781) 238-7759.

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

Issued on May 19, 2021.

#### Lance T. Gant,

Director, Compliance & Airworthiness Division, Aircraft Certification Service.

[FR Doc. 2021-11960 Filed 6-7-21; 8:45 am]

**BILLING CODE 4910-13-P**

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 39

[Docket No. FAA-2021-0098; Project Identifier MCAI-2020-01121-T; Amendment 39-21564; AD 2021-11-02]

RIN 2120-AA64

#### Airworthiness Directives; MHI RJ Aviation ULC (Type Certificate Previously Held by Bombardier, Inc.) Airplanes

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

**ACTION:** Final rule.

**SUMMARY:** The FAA is superseding Airworthiness Directive (AD) 2019-22-07, which applied to all MHI RJ Aviation ULC Model CL-600-2B19 (Regional Jet Series 100 & 440) airplanes, Model CL-600-2C10 (Regional Jet Series 700, 701 & 702) airplanes, Model CL-600-2D15 (Regional Jet Series 705) airplanes, Model CL-600-2D24 (Regional Jet Series 900) airplanes, and Model CL-600-2E25 (Regional Jet Series 1000) airplanes. AD 2019-22-07 required revising the existing airplane flight manual (AFM) to include a limitation and an abnormal operating procedure for the Automatic Flight Control System (AFCS). This AD requires revising the existing AFM and adding airplanes to the applicability. This AD was prompted by a finding that the limitation and abnormal operating procedure did not include reference to a certain mode. The FAA is issuing this AD to address the unsafe condition on these products.

**DATES:** This AD is effective July 13, 2021.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in this AD as of July 13, 2021.

**ADDRESSES:** For Bombardier service information identified in this final rule, contact MHI RJ Aviation ULC, 12655 Henri-Fabre Blvd., Mirabel, Québec J7N 1E1 Canada; Widebody Customer Response Center North America toll-free telephone +1-844-272-2720 or direct-dial telephone +1-514-855-8500; fax +1-514-855-8501; email [thd.crj@mhjrj.com](mailto:thd.crj@mhjrj.com); internet <https://mhjrj.com>. You may view this referenced service information at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA,

call 206-231-3195. It is also available on the internet at <https://www.regulations.gov> by searching for and locating Docket No. FAA-2021-0098.

#### 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-2021-0098; 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:** Steven Dzierzynski, Aerospace Engineer, Avionics and Electrical Systems Section, FAA, New York ACO Branch, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; telephone 516-228-7367; email [9-avs-nyaco-cos@faa.gov](mailto:9-avs-nyaco-cos@faa.gov).

#### SUPPLEMENTARY INFORMATION:

##### Background

Transport Canada Civil Aviation (TCCA), which is the aviation authority for Canada, has issued TCCA AD CF-2018-32R1, dated August 21, 2020 (also referred to as the Mandatory Continuing Airworthiness Information, or the MCAI), to correct an unsafe condition for all MHI RJ Aviation ULC Model CL-600-2B19 (Regional Jet Series 100 & 440), CL-600-2C10 (Regional Jet Series 700, 701 & 702), CL-600-2C11 (Regional Jet Series 550), CL-600-2D15 (Regional Jet Series 705), CL-600-2D24 (Regional Jet Series 900), and CL-600-2E25 (Regional Jet Series 1000) 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-2021-0098.

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to supersede AD 2019-22-07, Amendment 39-19786 (85 FR 439, January 6, 2020) (AD 2019-22-07). AD 2019-22-07 applied to all MHI RJ Aviation ULC Model CL-600-2B19 (Regional Jet Series 100 & 440) airplanes, Model CL-600-2C10 (Regional Jet Series 700, 701 & 702) airplanes, Model CL-600-2D15 (Regional Jet Series 705) airplanes, Model CL-600-2D24 (Regional Jet Series 900) airplanes, and Model CL-600-2E25 (Regional Jet Series 1000)



airplanes. The NPRM published in the **Federal Register** on February 24, 2021 (86 FR 11165). The NPRM was prompted by a finding that the limitation and abnormal operating procedure did not include reference to (V) ALTV CAP mode and a finding that the MHI RJ Aviation ULC Model CL-600-2C11 (Regional Jet Series 550) airplanes are also affected by the same unsafe condition (Model CL-600-2B19 airplanes do not have (V) ALTS CAP or (V) ALTV CAP mode). The risk of the unsafe condition also exists during (V) ALTV CAP mode. The NPRM proposed to require revising the existing AFM and adding airplanes to the applicability. The FAA is issuing this AD to address an engine failure, if it occurs during or before a climb while in ALTS CAP, (V) ALTS CAP, or (V) ALTV CAP mode, which may cause the airspeed to drop significantly below the safe operating speed, possibly resulting in reduced control 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) stated that it supports 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**

Bombardier has issued the following service information, which describes procedures for revising the existing AFM by including a limitation that specifies a warning for the AFCS and an abnormal operating procedure if an engine failure occurs during or before a climb while in ALTS CAP mode, (V) ALTS CAP mode, or (V) ALTV CAP mode, as applicable. These documents are distinct since they apply to different airplane models.

- Section 02-08, “System Limitations,” of Chapter 2, “LIMITATIONS”; and Section 05-02, “In-Flight Engine Failures,” of Chapter 5, “ABNORMAL PROCEDURES”; of the Bombardier CRJ Series Regional Jet Model CL-600-2B19 AFM, CSP A-012, Volume 1, Revision 73, dated January 3, 2020.
- Section 02-08, “System Limitations,” of Chapter 2, “LIMITATIONS”; and Section 05-02, “In-Flight Engine Failures,” of Chapter 5, “ABNORMAL PROCEDURES”; of the Bombardier CRJ Series Regional Jet Model CL-600-2C10 (Series 700, 701, 702) and CL-600-2C11 (Series 550) AFM, CSP B-012, Revision 31, dated May 8, 2020.
- Section 02-08, “System Limitations,” of Chapter 2, “LIMITATIONS”; and Section 05-02, “In-Flight Engine Failures,” of Chapter 5, “ABNORMAL PROCEDURES”; of the Bombardier CRJ Series Regional Jet Model CL-600-2D24 (Series 900) and CL-600-2D15 (Series 705) AFM, CSP C-012, Volume 1, Revision 24, dated March 27, 2020.
- Section 02-08, “System Limitations,” of Chapter 2, “LIMITATIONS”; and Section 05-02, “In-Flight Engine Failures,” of Chapter 5, “ABNORMAL PROCEDURES”; of the Bombardier CRJ Series Regional Jet Model CL-600-2E25 (Series 1000) AFM, CSP D-012, Revision 23, dated February 14, 2020.

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.

The FAA estimates that this AD affects 992 airplanes of U.S. registry.

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

**Costs of Compliance**

**Costs of Compliance**

The FAA estimates that this AD affects 992 airplanes of U.S. registry.

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

**ESTIMATED COSTS FOR REQUIRED ACTIONS**

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
New actions .....	1 work-hour × \$85 per hour = \$85 .....	\$0	\$85	\$84,320

**Authority for This Rulemaking**

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

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

develop on products identified in this rulemaking action.

**Regulatory Findings**

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

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

- (1) Is not a “significant regulatory action” under Executive Order 12866,
- (2) Will not affect intrastate aviation in Alaska, and
- (3) Will not have a significant economic impact, positive or negative, on a substantial number of small entities

under the criteria of the Regulatory Flexibility Act.

**List of Subjects in 14 CFR Part 39**

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

**Adoption of the Amendment**

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

**PART 39—AIRWORTHINESS DIRECTIVES**

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

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

**§ 39.13 [Amended]**

- 2. The FAA amends § 39.13 by:
- a. Removing Airworthiness Directive (AD) 2019–22–07, Amendment 39–19786 (85 FR 439, January 6, 2020); and
- b. Adding the following new AD:
- 2021–11–02 MHI RJ Aviation ULC (Type Certificate Previously Held by Bombardier, Inc.):** Amendment 39–21564; Docket No. FAA–2021–0098; Project Identifier MCAI–2020–01121–T.

**(a) Effective Date**

This airworthiness directive (AD) is effective July 13, 2021.

**(b) Affected ADs**

This AD replaces AD 2019–22–07, Amendment 39–19786 (85 FR 439, January 6, 2020) (AD 2019–22–07).

**(c) Applicability**

This AD applies to the MHI RJ Aviation ULC airplanes identified in paragraphs (c)(1) through (6) of this AD, certificated in any category, all manufacturer serial numbers.

- (1) Model CL–600–2B19 (Regional Jet Series 100 & 440) airplanes.
- (2) Model CL–600–2C10 (Regional Jet Series 700, 701 & 702) airplanes.
- (3) Model CL–600–2C11 (Regional Jet Series 550) airplanes.
- (4) Model CL–600–2D15 (Regional Jet Series 705) airplanes.
- (5) Model CL–600–2D24 (Regional Jet Series 900) airplanes.
- (6) Model CL–600–2E25 (Regional Jet Series 1000) airplanes.

**(d) Subject**

Air Transport Association (ATA) of America Code 22, Auto Flight.

**(e) Reason**

This AD was prompted by a report that during the Automatic Flight Control System (AFCS) ALTS CAP, (V) ALTS CAP, or (V) ALTV CAP mode, the flight guidance/autopilot does not account for engine failure while capturing an altitude. The FAA is issuing this AD to address an engine failure, if it occurs during or before a climb while in ALTS CAP, (V) ALTS CAP, or (V) ALTV CAP

mode, which may cause the airspeed to drop significantly below the safe operating speed, possibly resulting in reduced control of the airplane.

**(f) Compliance**

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

**(g) Revision of the Airplane Flight Manual (AFM)**

Within 60 days after the effective date of this AD: Revise the existing AFM to include the information in Subject 2, “AUTOMATIC FLIGHT CONTROL SYSTEM (AFCS),” of Section 02–08, “System Limitations,” of Chapter 2, “LIMITATIONS”; and Subject 1.C, “Engine Failure in Climb During ALTS CAP,” or Subject 1.D, “Engine Failure in Climb During (V) ALTS CAP or (V) ALTV CAP,” of Section 05–02, “In-flight Engine Failures,” of Chapter 5, “ABNORMAL PROCEDURES”; as applicable; of the applicable AFM identified in figure 1 to paragraph (g) of this AD.

**Figure 1 to paragraph (g) - AFM Revision**

<b>MHI RJ Aviation ULC Airplane Model</b>	<b>Bombardier AFM</b>	<b>AFM Revision</b>
CL-600-2B19	Bombardier CRJ Series Regional Jet Model CL-600-2B19 AFM, CSP A-012, Volume 1	Revision 73, dated January 3, 2020
CL-600-2C10 CL-600-2C11	Bombardier CRJ Series Regional Jet Model CL-600-2C10 (Series 700, 701, 702) and CL-600-2C11 (Series 550) AFM, CSP B-012	Revision 31, dated May 8, 2020
CL-600-2D15 CL-600-2D24	Bombardier CRJ Series Regional Jet Model CL-600-2D24 (Series 900) and CL-600-2D15 (Series 705) AFM, CSP C-012, Volume 1	Revision 24, dated March 27, 2020
CL-600-2E25	Bombardier CRJ Series Regional Jet Model CL-600-2E25 (Series 1000) AFM, CSP D-012	Revision 23, dated February 14, 2020

**(h) Credit for Previous Actions**

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 applicable AFM

specified in figure 2 to paragraph (h) of this AD.

**Figure 2 to paragraph (h) - Credit for Previous AFM Revision**

<b>MHI RJ Aviation ULC Airplane Model</b>	<b>Bombardier AFM</b>	<b>CRJ Series Regional Jet AFM Revision</b>
CL-600-2B19	Bombardier CRJ Series Regional Jet Model CL-600-2B19 AFM, CSP A-012, Volume 1	Revision 70, dated July 13, 2018; or Revision 68, dated August 4, 2017
CL-600-2C10 CL-600-2C11	Bombardier CRJ Series Regional Jet Model CL-600-2C10 (Series 700, 701, 702) and CL-600-2C11 (Series 550) AFM, CSP B-012	Revision 29, dated September 20, 2019
CL-600-2D15 CL-600-2D24	Bombardier CRJ Series Regional Jet Model CL-600-2D24 (Series 900) and CL-600-2D15 (Series 705) AFM, CSP C-012, Volume 1	Revision 22, June 7, 2019
CL-600-2E25	Bombardier CRJ Series Regional Jet Model CL-600-2E25 (Series 1000) AFM, CSP D-012	Revision 22, dated September 6, 2019

**(i) Other FAA AD Provisions**

(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 responsible Flight Standards 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 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, New York ACO Branch, FAA; or Transport Canada Civil Aviation (TCCA); or MHI RJ Aviation ULC's TCCA Design Approval Organization (DAO). If approved by the DAO, the approval must include the DAO-authorized signature.

**(j) Related Information**

(1) Refer to Mandatory Continuing Airworthiness Information (MCAI) TCCA AD

CF-2018-32R1, dated August 21, 2020, 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-2021-0098.

(2) For more information about this AD, contact Steven Dzierzynski, Aerospace Engineer, Avionics and Electrical Systems Section, FAA, New York ACO Branch, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; telephone 516-228-7367; email [9-avs-nyaco-cos@faa.gov](mailto:9-avs-nyaco-cos@faa.gov).

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

**(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) Section 02-08, "System Limitations," of Chapter 2, "LIMITATIONS," of Bombardier CRJ Series Regional Jet Model CL-600-2B19 Airplane Flight Manual (AFM), CSP A-012, Volume 1, Revision 73, dated January 3, 2020.

(ii) Section 05-02, "In-flight Engine Failures," of Chapter 5, "ABNORMAL

PROCEDURES," of Bombardier CRJ Series Regional Jet Model CL-600-2B19 Airplane Flight Manual (AFM), CSP A-012, Volume 1, Revision 73, dated January 3, 2020.

(iii) Section 02-08, "System Limitations," of Chapter 2, "LIMITATIONS," of Bombardier CRJ Series Regional Jet Model CL-600-2C10 (Series 700, 701, 702) and CL-600-2C11 (Series 550) AFM, CSP B-012, Revision 31, dated May 8, 2020.

(iv) Section 05-02, "In-flight Engine Failures," of Chapter 5, "ABNORMAL PROCEDURES," of Bombardier CRJ Series Regional Jet Model CL-600-2C10 (Series 700, 701, 702) and CL-600-2C11 (Series 550) AFM, CSP B-012, Revision 31, dated May 8, 2020.

(v) Section 02-08, "System Limitations," of Chapter 2, "LIMITATIONS," of Bombardier CRJ Series Regional Jet Model CL-600-2D24 (Series 900) and Model CL-600-2D15 (Series 705) AFM, CSP C-012, Volume 1, Revision 24, dated March 27, 2020.

(vi) Section 05-02, "In-flight Engine Failures," of Chapter 5, "ABNORMAL PROCEDURES," of Bombardier CRJ Series Regional Jet Model CL-600-2D24 (Series 900) and Model CL-600-2D15 (Series 705) AFM, CSP C-012, Volume 1, Revision 24, dated March 27, 2020.

(vii) Section 02-08, "System Limitations," of Chapter 2, "LIMITATIONS," of Bombardier CRJ Series Regional Jet Model

CL-600-2E25 (Series 1000) AFM, CSP D-012, Revision 23, dated February 14, 2020.

(viii) Section 05-02, "In-flight Engine Failures," of Chapter 5, "ABNORMAL PROCEDURES," of Bombardier CRJ Series Regional Jet Model CL-600-2E25 (Series 1000) AFM, CSP D-012, Revision 23, dated February 14, 2020.

(3) For Bombardier service information identified in this AD, contact MHI RJ Aviation ULC, 12655 Henri-Fabre Blvd., Mirabel, Québec J7N 1E1 Canada; Widebody Customer Response Center North America toll-free telephone +1-844-272-2720 or direct-dial telephone +1-514-855-8500; fax +1-514-855-8501; email [thd.crj@mhirj.com](mailto:thd.crj@mhirj.com); internet <https://mhirj.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](mailto:fedreg.legal@nara.gov), or go to: <https://www.archives.gov/federal-register/cfr/ibr-locations.html>.

Issued on May 11, 2021.

**Lance T. Gant,**

*Director, Compliance & Airworthiness Division, Aircraft Certification Service.*

[FR Doc. 2021-11956 Filed 6-7-21; 8:45 am]

**BILLING CODE 4910-13-P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA-R08-OAR-2021-0002; FRL-10024-54-Region 8]

### Approval and Promulgation of Implementation Plans; North Dakota; Revisions to Air Pollution Control Rules; Regional Haze

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is finalizing approval on a revision to the North Dakota State Implementation Plan (SIP) submitted by the State of North Dakota on November 11, 2016 and supplemented on March 15, 2021, that addresses amendments to the regional haze provisions of the North Dakota Administrative Code (NDAC). These revisions were submitted to remove certain regional haze requirements related to Best Available Retrofit Technology (BART) in the first planning period. EPA is also finalizing approval on a revision to the North Dakota SIP submitted on August

3, 2020, that addresses additional amendments to the regional haze provisions of the NDAC. The 2020 SIP revision was submitted to update the incorporation by reference date for regional haze definitions, add emission reduction requirements to make reasonable progress during the second and subsequent regional haze planning periods, and revise the regional haze monitoring, recordkeeping, and reporting requirements to be applicable under the second and subsequent planning period. EPA is taking this action pursuant to section 110 and Part C of the Clean Air Act (CAA).

**DATES:** This rule is effective on July 8, 2021.

**ADDRESSES:** The EPA has established a docket for this action under Docket ID No. EPA-R08-OAR-2021-0002. All documents in the docket are listed on the <http://www.regulations.gov> website. Although listed in the index, some information is not publicly available, e.g., CBI 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 through <http://www.regulations.gov>, or please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section for additional availability information.

**FOR FURTHER INFORMATION CONTACT:** Jaslyn Dobrahner, Air and Radiation Division, EPA, Region 8, Mailcode 8ARD-IO, 1595 Wynkoop Street, Denver, Colorado 80202-1129, (303) 312-6252, [dobrahner.jaslyn@epa.gov](mailto:dobrahner.jaslyn@epa.gov).

**SUPPLEMENTARY INFORMATION:** Throughout this document "we," "us," and "our" means the EPA.

### I. Background

The background for this action is discussed in detail in our April 1, 2021 proposal (86 FR 17101). In that document we proposed to approve North Dakota's regional haze SIP revision submitted by the State of North Dakota on November 11, 2016 and supplemented on March 15, 2021. Specifically, we proposed to approve North Dakota's removal of NDAC section 33-15-25-02.1 (requirement pertaining to the submittal of a regional haze BART analysis) and section 33-15-25-03 (requirement that references the federal guidelines for BART determinations under the regional haze

rule) from the regional haze provisions provided in NDAC section 33-15-25.<sup>1</sup>

We also proposed to approve a portion of North Dakota's August 3, 2020, SIP revision that addresses NDAC section 33.1-15-25 of the Air Pollution Control Rules for regional haze.<sup>2</sup> Specifically, we proposed to approve the following revisions to NDAC: Section 33.1-15-25-01 which updates the incorporation by reference date for regional haze definitions; section 33.1-15-25-03 which adds emission reduction requirements to make reasonable progress for the second and subsequent planning periods; and section 33.1-15-25-04 which revises the regional haze monitoring, recordkeeping, and reporting requirements to be applicable under the second and subsequent planning periods.

We did not receive any comments on the proposed rule.

### II. Final Action

In this action, EPA is finalizing approval on SIP amendments to North Dakota Air Pollution Control Rules, shown in Table 1, submitted by the State of North Dakota on November 11, 2016, and supplemented March 15, 2021, and August 3, 2020.

**TABLE 1—LIST OF NORTH DAKOTA AMENDMENTS THAT EPA IS APPROVING**

**Amended Sections in the November 11, 2016 Submittal, Supplemented March 15, 2021**  
NDAC section 33-15-25-02.1,<sup>3</sup> NDAC section 33-15-25-03.<sup>4</sup>

**Amended Sections in the August 3, 2020 Submittal**  
NDAC section 33.1-15-25-01, NDAC section 33.1-15-25-03, NDAC section 33.1-15-25-04.

### III. Incorporation by Reference

In this document, EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, EPA is finalizing the incorporation

<sup>1</sup> On August 6, 2018, North Dakota submitted a SIP to EPA that recodified the Air Pollution Control Rules, including those that address regional haze, from NDAC section 33-15 to NDAC section 33.1-15. EPA approved the recodification on February 5, 2019 (84 FR 1610). The recodification made the regional haze section of NDAC to be changed from section 33-15-25 to section 33.1-15-25. The 2018 SIP reflected the deletions of section 33.1-15-25-02.1 and section 33.1-15-25-03 (formerly referred to as section 33-15-25-02.1 and section 33-15-25-03).

<sup>2</sup> EPA will act on the remaining portions of the ND August 3, 2020, SIP in a separate future rulemaking.

<sup>3</sup> Since North Dakota's NDAC recodification in 2018, section 33-15-25-02.1 is referred to as section 33.1-15-25-02.1.

<sup>4</sup> Since North Dakota's NDAC recodification in 2018, section 33-15-25-03 is referred to as section 33.1-15-25-03.

by reference of NDAC as described in section II of this preamble. EPA has made, and will continue to make, these materials generally available through [www.regulations.gov](http://www.regulations.gov) and at the EPA Region 8 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 SIP, 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.<sup>5</sup>

**IV. Statutory and Executive Order Reviews**

Under the Clean Air Act, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, the EPA’s role is to approve state choices, provided that they meet the criteria of the Clean Air Act. Accordingly, 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, 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 appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, 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 and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

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 Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by August 9, 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, Greenhouse gases, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: June 2, 2021.

**Debra H. Thomas,**  
*Acting Regional Administrator, Region 8.*

40 CFR part 52 is amended 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 JJ—North Dakota**

- 2. In § 52.1820, the table in paragraph (c) is amended by revising the entries “33.1–15–25–01”, “33.1–15–25–02”, “33.1–15–25–03”, and “33.1–15–25–04” to read as follows:

**§ 52.1820 Identification of plan.**

\* \* \* \* \*  
(c) \* \* \*

Rule No.	Rule title	State effective date	EPA effective date	Final rule citation/date	Comments
*	*	*	*	*	*
<b>33.1–15–25. Regional Haze Requirements</b>					
33.1–15–25–01 .....	Definitions .....	7/1/2020	7/8/2021	[insert <b>Federal Register</b> citation], 6/8/2021.	
33.1–15–25–02 .....	Best available retrofit technology .....	7/1/2016	7/8/2021	[insert <b>Federal Register</b> citation], 6/8/2021.	

<sup>5</sup> 62 FR 27968 (May 22, 1997).

Rule No.	Rule title	State effective date	EPA effective date	Final rule citation/date	Comments
33.1-15-25-03 .....	Emission reduction measures required to make reasonable progress toward the national visibility goal.	7/1/2020	7/8/2021	[insert <b>Federal Register</b> citation], 6/8/2021.	
33.1-15-25-04 .....	Monitoring, recordkeeping, and reporting	7/1/2020	7/8/2021	[insert <b>Federal Register</b> citation], 6/8/2021.	

\* \* \* \* \*

[FR Doc. 2021-11888 Filed 6-7-21; 8:45 am]

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## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Parts 1 and 27

[AU Docket No. 21-62; DA 21-567; FR ID 29366]

#### Certification Adopted for Auction of Flexible-Use Service Licenses in the 3.45-3.55 Band for Next-Generation Wireless Services (Auction 110)

**AGENCY:** Federal Communications Commission.

**ACTION:** Final action; requirement and procedure.

**SUMMARY:** In this document, the Office of Economics and Analytics and the Wireless Telecommunications Bureau adopt a certification that will be required of each applicant to participate in the upcoming auction of flexible-use licenses in the 3.45-3.55 GHz band (Auction 110).

**DATES:** The Commission will publish a document in the **Federal Register** announcing the effective date of the certification requirement.

**FOR FURTHER INFORMATION CONTACT:** *Auction 110 Information:* Mary Lovejoy or Andrew McArdell at 202-418-0660.

**SUPPLEMENTARY INFORMATION:** This is a summary of the *Auction 110 Certification Requirement Public Notice*, released on May 19, 2021. The complete text of the *Auction 110 Certification Requirement Public Notice*, including attachments and any related documents, is available on the Commission's website at [www.fcc.gov/auction/110](http://www.fcc.gov/auction/110) or by using the search function for AU Docket No. 21-62, DA 21-567, on the Commission's Electronic Comment Filing System (ECFS) web page at [www.fcc.gov/ecfs](http://www.fcc.gov/ecfs). Alternative formats are available to persons with disabilities by sending an email to [FCC504@fcc.gov](mailto:FCC504@fcc.gov) or by calling the Consumer & Governmental Affairs Bureau at (202) 418-0530 (voice), (202) 418-0432 (TTY).

1. By the *Auction 110 Certification Requirement Public Notice*, the Office of

Economics and Analytics (OEA) and the Wireless Telecommunications Bureau (WTB) adopt a certification that will be required of each applicant to participate in the upcoming auction of flexible-use licenses in the 3.45-3.55 GHz band (Auction 110). Specifically, each applicant for Auction 110 will be required to certify in its short-form application that it has read the public notice describing the procedures for the auction and that it has familiarized itself both with the auction procedures and with the requirements for obtaining a license and operating facilities in the 3.45-3.55 GHz band.

2. In the *Auction 110 Comment Public Notice*, 86 FR 18000 (April 7, 2021), released March 18, 2021, the Commission sought comment on a range of proposed procedures for conducting Auction 110, including a proposal to require each participant in Auction 110 to certify in its short-form application, under penalty of perjury, that it has read the public notice adopting procedures for the auction and that it has familiarized itself both with the auction procedures and with the requirements for obtaining a license and operating facilities in the 3.45-3.55 GHz band. As with other certifications required to be made in an auction application, a failure to make the certification would render the application unacceptable for filing, and the application would be dismissed with prejudice.

3. The Commission proposed to establish this requirement to help ensure that each applicant has reviewed the procedures to become a qualified bidder and participate in the auction process and that it has investigated and assessed technical and business factors that may be relevant to its use of the licenses being offered. The Commission reasoned that this requirement would promote an applicant's successful participation and would minimize its risk of auction defaults.

4. This certification is designed to bolster applicants' efforts to educate themselves to the greatest extent possible about procedures for auction participation and to ensure that, prior to submitting their short-form applications, applicants understand their obligation to stay abreast of relevant, forthcoming information. By

ensuring familiarity with the Commission's rules and procedures governing Auction 110, OEA and WTB are also taking steps to help bidders avoid the consequences to them associated with defaults, as well as the consequences for other applicants, the public, and the Commission associated therewith. This certification, along with the other certifications required pursuant to § 1.2105(a) of the Commission's rules, helps ensure that auction applicants are sincere about their interest in the auction, and it may discourage the filing of frivolous applications that waste Commission resources.

5. For these reasons, OEA and WTB will require each Auction 110 applicant to certify as follows in its short-form application:

That the applicant has read the public notice adopting procedures for the auction and that it has familiarized itself both with the auction procedures and with the requirements for obtaining a license and operating facilities in the 3.45-3.55 GHz band.

An applicant will provide this certification under penalty of perjury, consistent with § 1.2105(a) of the Commission's rules.

6. This action is taken by the Office of Economics and Analytics, jointly with the Wireless Telecommunications Bureau, pursuant to §§ 0.21(m) and 0.131(c) of the Commission's rules. This requirement is an information collection that is subject to approval by the Office of Management and Budget (OMB), pursuant to the Paperwork Reduction Act of 1995, Public Law 104-13. Accordingly, this requirement will apply to applicants for Auction 110 only if it has been approved by OMB and notice of such approval has been published in the **Federal Register** prior to the opening of the short-form application window for Auction 110.

#### Supplemental Final Regulatory Flexibility Analysis

7. As required by the Regulatory Flexibility Act of 1980, as amended (RFA), a Supplemental Initial Regulatory Flexibility Analysis (Supplemental IRFA) was incorporated in the *Auction 110 Comment Public Notice* released in March 2021. The

Commission sought public comment on the proposals in the *Auction 110 Comment Public Notice*, including comments on the Supplemental IRFA. One comment was filed addressing the Supplemental IRFA. The *Auction 110 Certification Requirement Public Notice* establishes a certification requirement to be used for Auction 110 and supplements the Initial and Final Regulatory Flexibility Analyses completed by the Commission in the *3.1–3.55 GHz Report and Order (R&O) and Further Notice of Proposed Rulemaking (FNPRM)*, 85 FR 64062, October 2, 2020, and 85 FR 66888, October 21, 2020, *3.45 GHz Second Report and Order*, 86 FR 17920, April 7, 2021, and other Commission orders pursuant to which Auction 110 will be conducted. This present Supplemental Final Regulatory Flexibility Analysis (Supplemental FRFA) conforms to the RFA.

8. *Need for, and Objectives of, the Rules.* The *Auction 110 Certification Requirement Public Notice* implements an element of the auction procedures for those entities that seek to bid to acquire licenses in Auction 110, which will be the Commission's third auction of mid-band spectrum in furtherance of the deployment of fifth-generation (5G) wireless, the Internet of Things (IoT), and other advanced spectrum-based services.

9. To promote the efficient and fair administration of the competitive bidding process for all Auction 110 participants, OEA and WTB adopt a procedure requiring each Auction 110 applicant to certify that it has read the public notice adopting procedures for the auction and that it has familiarized itself both with the auction procedures and with the requirements for obtaining a license and operating facilities in the 3.45–3.55 GHz band, consistent with the proposal made in the *Auction 110 Comment Public Notice*.

10. This requirement is an element of the more specific implementation of the competitive bidding rules contemplated by parts 1 and 27 of the Commission's rules and the underlying rulemaking decisions regarding the 3.45–3.55 GHz band, including the *3.45 GHz Second Report and Order*, and relevant competitive bidding orders, and are fully consistent therewith.

11. *Summary of Significant Issues Raised by Public Comments in Response to the Supplemental IRFA.* One party—the Rural Wireless Association (RWA)—filed comments that address issues raised in the Supplemental IRFA. RWA argues that the Commission's analysis in the *Auction 110 Comment Public Notice's* Supplemental IRFA

underestimates the costs that small and rural entities incur when participating in a Commission auction. RWA states that, contrary to the Commission's expectations, RWA members regularly consult attorneys, engineers, and consultants to participate in Commission auctions, incurring costs of \$100,000 on average per auction. RWA provides no support for this cost figure. Nor does RWA clarify what portion of this figure represents costs associated with applying to participate in the auction and/or whether the figure may be an aggregate amount for all of its trade association members. RWA claims that the educational materials provided by the Commission are insufficient, as some materials are not provided until after the short-form application deadline.

12. *Response to Comments by the Chief Counsel for Advocacy of the Small Business Administration.* Pursuant to the Small Business Jobs Act of 2010, which amended the RFA, the Commission is required to respond to any comments filed by the Chief Counsel for Advocacy of the Small Business Administration (SBA) and to provide a detailed statement of any changes made to the proposed procedures as a result of those comments. The Chief Counsel did not file any comments in response to the procedures that were proposed in the *Auction 110 Comment Public Notice*.

13. *Description and Estimate of the Number of Small Entities to Which the Rules Will Apply.* The RFA directs agencies to provide a description of, and, where feasible, an estimate of the number of small entities that may be affected by the rules and policies adopted herein. The RFA generally defines the term "small entity" as having the same meaning as the terms "small business," "small organization," and "small governmental jurisdiction." In addition, the term "small business" has the same meaning as the term small business concern under the Small Business Act. A "small business concern" is one which: (1) Is independently owned and operated, (2) is not dominant in its field of operation, and (3) satisfies any additional criteria established by the SBA.

14. As noted above, Regulatory Flexibility Analyses were incorporated into the *3.1–3.55 GHz R&O and FNPRM* and the *3.45 GHz Second Report and Order*. These decisions provide the underlying authority for the procedures proposed in the *Auction 110 Comment Public Notice* and are adopted herein for Auction 110. In those regulatory flexibility analyses, the Commission described in detail the small entities

that might be significantly affected. In the *Auction 110 Certification Requirement Public Notice*, OEA and WTB hereby incorporate by reference the descriptions and estimates of the number of small entities from the previous Regulatory Flexibility Analyses in the *3.1–3.55 GHz R&O and FNPRM* and the *3.45 GHz Second Report and Order*.

15. *Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements for Small Entities.* The Commission designed its auction application process to minimize reporting and compliance requirements for applicants, including small business applicants. In the first part of the Commission's two-stage auction application process, parties desiring to participate in an auction file a streamlined, short-form application in which they certify under penalty of perjury as to their qualifications. Eligibility to participate in an auction is based on an applicant's short-form application and certifications, as well as its upfront payment. The *Auction 110 Certification Requirement Public Notice* adds to the existing certifications that are required under the Commission's competitive bidding rules a certification that is specific to Auction 110.

16. Typically, the auction procedures informs prospective applicants that they are expected to familiarize themselves with the Commission's general competitive bidding rules, Commission decisions regarding competitive bidding procedures, application requirements, obligations of Commission licensees, and the Commission's service rules for the frequency band available in the auction, and that they must be thoroughly familiar with the procedures, terms, and conditions contained in the public notice adopting procedures for the auction. OEA and WTB therefore do not expect that the certification requirement adopted in the *Auction 110 Certification Requirement Public Notice* will increase the need for small entities to hire attorneys, engineers, consultants, or other professionals because it does not increase the level of education or due diligence beyond what was required of applicants prior to the adoption of the certification requirement, and thus it should not increase an applicant's burden in complying with the additional certification requirement. The public notice adopting the procedures for Auction 110 will be made publicly available on the Auction 110 web page, and the *3.45 GHz Second Report and Order* is already publicly available on both the Commission's main website and the Auction 110 web

page. OEA and WTB believe that these materials are sufficient to ensure that Auction 110 applicants can certify truthfully that they have read the auction procedures and familiarized themselves with the relevant rules and requirements.

17. RWA does not provide evidence that outside consultants are needed to enable an entity to certify truthfully that it has read the public notice adopting the procedures for the auction and that it has familiarized itself both with the auction procedures and with the requirements for obtaining a license and operating facilities in the 3.45–3.55 GHz band. Instead, RWA claims that small entity bidders cannot make complex decisions on the future impacts of auction bidding, participation, and winning bidder compliance requirements without outside counsel. In doing so, RWA appears to conflate compliance with auction procedures (in this case, certifying that they have read the public notice adopting procedures for Auction 110 and familiarized themselves with those procedures and the service rules for the 3.45–3.55 GHz band) with the development of bidding strategies and compliance with the relevant service rules. The Commission does not believe that outside consultants of this sort are necessary for an applicant to comply with this certification requirement.

18. *Steps Taken to Minimize the Significant Economic Impact on Small Entities, and Significant Alternatives Considered.* The RFA requires an agency to describe any significant, specifically small business, alternatives that it has considered in reaching its approach, which may include the following four alternatives (among others): (1) the establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance and reporting requirements under the rule for such small entities; (3) the use of performance rather than design standards; and (4) an exemption from coverage of the rule, or any part thereof, for such small entities.

19. The Commission has taken steps to minimize any economic impact of its auction procedures on small entities through, among other things, the many free resources the Commission provides to potential auction participants. Consistent with the past practices in prior auctions, small entities that are potential participants will have access to the public notice adopting the procedures for Auction 110 prior to the opening of the application window, and

already have access to the *3.45 GHz Second Report and Order* on both the Commission's main website and the Auction 110 web page. The Commission makes this information publicly available and easily accessible and without charge to benefit all potential Auction 110 applicants, including small entities, thereby lowering their administrative costs to comply with the Commission's competitive bidding rules.

20. Small entities and other auction participants may seek clarification of, or guidance regarding, the Auction 110 procedures and the service rules for the 3.45–3.55 GHz band rules prior to the Auction 110 application window. Additionally, an FCC Auctions Hotline will provide small entities one-on-one access to Commission staff for information about the auction process and procedures. The FCC Auctions Technical Support Hotline is another resource that provides technical assistance to applicants, including small entities, on issues such as access to or navigation within the electronic FCC Form 175 and use of the bidding system.

21. The Commission also makes various databases and other sources of information, including the auctions program web pages and copies of Commission decisions, available to the public without charge, providing a low-cost mechanism for small entities to conduct research prior to and throughout the auction.

22. These procedures for the conduct of Auction 110 constitute the more specific implementation of the competitive bidding rules contemplated by parts 1 and 27 of the Commission's rules and the underlying rulemaking decisions regarding the 3.45–3.55 GHz band, including the *3.45 GHz Second Report and Order* and relevant competitive bidding decisions, and are fully consistent therewith.

23. *Report to Congress.* The Commission will send a copy of the *Auction 110 Certification Requirement Public Notice*, including the Supplemental FRFA, in a report to Congress pursuant to the Congressional Review Act. In addition, the Commission will send a copy of the *Auction 110 Certification Requirement Public Notice*, including the Supplemental FRFA, to the Chief Counsel for Advocacy of the SBA.

Federal Communications Commission.

**Erik Salovaara,**

*Assistant Chief, Auctions Division, Office of Economics and Analytics.*

[FR Doc. 2021–11694 Filed 6–7–21; 8:45 am]

**BILLING CODE 6712-01-P**

## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Part 54

[WC Docket Nos. 18–143, 10–90, 14–58; FCC 19–95; FRS 30653]

### The Uniendo a Puerto Rico Fund and the Connect USVI Fund, Connect America Fund, ETC Annual Reports and Certifications

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule; announcement of effective date.

**SUMMARY:** In this document, the Federal Communications Commission (Commission) announces that the Office of Management and Budget (OMB) has approved, for a period of three years, an information collection associated with the rules for the Connect America Fund contained in the Commission's *Uniendo a Puerto Rico Fund and Connect USVI Fund Order*, FCC 19–95. This document is consistent with the *Uniendo a Puerto Rico Fund and Connect USVI Fund Order*, which stated that the Commission would publish a document in the **Federal Register** announcing the effective date of the new information collection requirements.

**DATES:** The amendments to § 54.313(e) introductory text, (e)(2) introductory text and paragraphs (n) and (o) published at 84 FR 59937, November 7, 2019 are effective June 8, 2021.

**FOR FURTHER INFORMATION CONTACT:** Suzanne Yelen, Wireline Competition Bureau at (202) 418–7400 or TTY (202) 418–0484. For additional information concerning the Paperwork Reduction Act information collection requirements contact Nicole Ongele at (202) 418–2991 or via email: [Nicole.Ongele@fcc.gov](mailto:Nicole.Ongele@fcc.gov).

**SUPPLEMENTARY INFORMATION:** The Commission submitted revised information collection requirements for review and approval by OMB, as required by the Paperwork Reduction Act (PRA) of 1995, on March 8, 2021, which were approved by OMB on May 10, 2021. The information collection requirements are contained in the Commission's *Uniendo a Puerto Rico Fund and Connect USVI Fund Order*, FCC 19–95 published at 84 FR 59937, November 7, 2019. The OMB Control Number is 3060–0986. If you have any comments on the burden estimates listed in the following, or how the Commission can improve the collections and reduce any burdens caused thereby, please contact Nicole Ongele, Federal Communications Commission, 45 L Street NE,



Washington, DC 20554. Please include the OMB Control Number, 3060–0986, in your correspondence. The Commission will also accept your comments via email at [PRA@fcc.gov](mailto: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](mailto: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 Commission is notifying the public that it received OMB approval on May 10, 2021, for the information collection requirements contained in 47 CFR 54.313(e) introductory text, (e)(2) introductory text and paragraphs (n) and (o) published at 84 FR 59937, November 7, 2019. 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 3060–0986.

The foregoing notification 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:* 3060–0986.

*OMB Approval Date:* May 10, 2021.

*OMB Expiration Date:* May 31, 2024.

*Title:* High-Cost Universal Service Support.

*Form Number:* FCC Form 481 and FCC Form 525.

*Type of Review:* Revision of a currently approved collection.

*Respondents:* Business or other for-profit, Not-for-profit institutions and State, Local or Tribal Government.

*Number of Respondents and Responses:* 2,049 unique respondents; 14,358 responses.

*Estimated Time per Response:* 0.1–15 hours.

*Frequency of Response:* On occasion, quarterly and annual reporting requirements, recordkeeping requirement and third party disclosure requirement.

*Obligation to Respond:* Required to obtain or retain benefits. Statutory authority for this information collection is contained in 47 U.S.C. 151–154, 155,

201–206, 214, 218–220, 251, 252, 254, 256, 303(r), 332, 403, 405, 410, and 1302.

*Total Annual Burden:* 53,955 hours.

*Total Annual Cost:* No Cost.

*Privacy Act Impact Assessment:* No impact(s).

*Nature and Extent of Confidentiality:* The Commission notes that the Universal Service Administrative Company (USAC) must preserve the confidentiality of all data obtained from respondents and contributors to the universal service support program mechanism; must not use the data except for purposes of administering the universal service program; must not use the data except for purposes of administering the universal support program; and must not disclose data in company-specific form unless directed to do so by the Commission. Parties may submit confidential information in relation to the Privately Held Rate-of-Return Carrier Financial Information requirement pursuant to a protective order. Also, respondents may request materials or information submitted to the Commission or to the Administrator believed confidential to be withheld from public inspection under 47 CFR 0.459 of the FCC's rules.

*Needs and Uses:* On November 18, 2011, the Commission adopted an order reforming its high-cost universal service support mechanisms. *Connect America Fund; A National Broadband Plan for Our Future; Establish Just and Reasonable Rates for Local Exchange Carriers; High-Cost Universal Service Support; Developing a Unified Intercarrier Compensation Regime; Federal-State Joint Board on Universal Service; Lifeline and Link-Up; Universal Service Reform—Mobility Fund*, WC Docket Nos. 10–90, 07–135, 05–337, 03–109; GN Docket No. 09–51; CC Docket Nos. 01–92, 96–45; WT Docket No. 10–208, Order and Further Notice of Proposed Rulemaking, 26 FCC Rcd 17663 (2011) (*USF/ICC Transformation Order*), and the Commission and Wireline Competition Bureau have since adopted a number of orders that implement the *USF/ICC Transformation Order*; see also *Connect America Fund et al.*, WC Docket No. 10–90 et al., Third Order on Reconsideration, 27 FCC Rcd 5622 (2012); *Connect America Fund et al.*, WC Docket No. 10–90 et al., Order, 27 FCC Rcd 605 (Wireline Comp. Bur. 2012); *Connect America Fund et al.*, WC Docket No. 10–90 et al., Fifth Order on Reconsideration, 27 FCC Rcd 14549 (2012); *Connect America Fund et al.*, WC Docket No. 10–90 et al., Order, 28 FCC Rcd 2051 (Wireline Comp. Bur. 2013); *Connect America Fund et al.*, WC Docket No. 10–90 et al., Order, 28 FCC

Rcd 7227 (Wireline Comp. Bur. 2013); *Connect America Fund*, WC Docket No. 10–90, Report and Order, 28 FCC Rcd 7766 (Wireline Comp. Bur. 2013); *Connect America Fund*, WC Docket No. 10–90, Report and Order, 28 FCC Rcd 7211 (Wireline Comp. Bur. 2013); *Connect America Fund*, WC Docket No. 10–90, Report and Order, 28 FCC Rcd 10488 (Wireline Comp. Bur. 2013); *Connect America Fund et al.*, WC Docket No. 10–90 et al., Report and Order, Order and Order on Reconsideration and Further Notice of Proposed Rulemaking, 31 FCC Rcd 3087 (2016); *Connect America Fund et al.*, WC Docket Nos. 10–90, 16–271; WT Docket No. 10–208, Report and Order and Further Notice of Proposed Rulemaking, 31 FCC Rcd 10139 (2016); *Connect America Fund; ETC Annual Reports and Certifications*, WC Docket Nos. 10–90, 14–58, Order, 32 FCC Rcd 968 (2017); *Connect America Fund et al.*, WC Docket No. 10–90 et al., Report and Order, Further Notice of Proposed Rulemaking, and Order on Reconsideration, 33 FCC Rcd 11893 (2018); *Connect America Fund; ETC Annual Reports and Certifications*, WC Docket Nos. 10–90, 14–58, Report and Order, 32 FCC Rcd 5944 (2017). The Commission has received OMB approval for most of the information collections required by these orders. At a later date, the Commission plans to submit additional revisions for OMB review to address other reforms adopted in the orders.

More recently, the Commission adopted the *Uniendo a Puerto Rico Fund and Connect USVI Fund Order*, which allocated nearly a billion additional dollars to United States territories that had suffered extensive infrastructure damage due to Hurricanes Irma and Maria. *The Uniendo a Puerto Rico Fund and the Connect USVI Fund, et al.*, WC Docket No. 18–143, et al., Report and Order and Order on Reconsideration, 34 FCC Rcd 9109 (2019) (*Puerto Rico and USVI Stage 2 Order*). The Commission adopted similar accountability measures for recipients of this support as required of other high-cost support recipients to ensure that providers receive support “only for the provision, maintenance, and upgrading of facilities and services for which the support is intended.” *Puerto Rico and USVI Stage 2 Order*, 34 FCC Rcd at 9149, para. 72.

In the *2019 Supply Chain Order*, the Commission also adopted a rule prohibiting the use of USF support to purchase or obtain any equipment or services produced or provided by a covered company posing a national security threat to the integrity of

communications networks or the communications supply chain.

*Protecting Against National Security Threats to the Communications Supply Chain Through FCC Programs*, WC Docket No. 18–89, Report and Order, Further Notice of Proposed Rulemaking, and Order, 34 FCC Rcd 11423, 11433, para. 26. *See also* 47 CFR 54.9. In June 2020, the Public Safety and Homeland Security Bureau issued final designations of Huawei Technologies Company (Huawei) and ZTE Corp. (ZTE) as covered companies for the purposes of this rule. *Protecting Against National Security Threats to the Communications Supply Chain Through FCC Programs—Huawei Designation*, WC Docket No. 19–351, Order, 35 FCC Rcd 6604 (PSHSB June 30, 2020) (*Huawei Designation Order*); *Protecting Against National Security Threats to the Communications Supply Chain Through FCC Programs—ZTE Designation*, WC Docket No. 19–352, Order, 35 FCC Rcd 6633 (PSHSB June 30, 2020) (*ZTE Designation Order*). Accordingly, USF recipients may not use USF funds to purchase, obtain, maintain, improve, modify, manage, or otherwise support Huawei or ZTE equipment or services in any way, including upgrades to existing Huawei or ZTE equipment and services. *Huawei Designation Order*, 35 FCC Rcd at 6608, para. 10; *ZTE Designation Order*, 35 FCC Rcd at 6637, para. 10. Moreover, USF recipients must certify that they are in compliance with this rule. *2019 Supply Chain Order*, 34 FCC Rcd at 11454, para. 79; *see also* 47 CFR 54.9.

Lastly, in the *CAF Phase II Auction Order*, in addition to rules requiring Connect America Phase II auction support recipients to report regarding support used for capital expenditures, certify regarding available funds, and certify that the Phase II-funded network meets performance requirements, the Commission also adopted rules requiring that Phase II auction support recipients must report information on served community anchor institutions and certify regarding bidding on FCC Form 470 postings for eligible schools and libraries in census blocks where the carrier receives auction support. *Connect America Fund, et al.*, WC Docket No. 10–90, et al., Report and Order and Further Notice of Proposed Rulemaking, 31 FCC Rcd 5949 (2016) (*CAF Phase II Auction Order*). Recipients of Uniendo a Puerto Rico Fund and Connect USVI Fund Stage 2 support must also observe these requirements in addition to the general requirements for high-cost support recipients and requirements specific to

the Uniendo a Puerto Rico Fund and Connect USVI Fund programs. *See Puerto Rico and USVI Stage 2 Order*, 34 FCC Rcd at 9150, para. 74.

The Commission therefore revises this information collection, as well as Form 481 and its accompanying instructions, to reflect these new and revised requirements. We also eliminated one requirement that is associated with obligations no longer in effect for certain carriers. Any increased burdens for reporting requirements account for the additional carriers that will be subject to those requirements as a condition for receiving high-cost support.

Federal Communications Commission.

**Marlene Dortch,**

*Secretary, Office of the Secretary.*

[FR Doc. 2021–11903 Filed 6–7–21; 8:45 am]

**BILLING CODE 6712–01–P**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 622

[Docket No. 1710319998630–02]

RTID 0648–XB091

#### Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Snapper-Grouper Resources of the South Atlantic; 2021 Red Snapper Commercial and Recreational Fishing Seasons

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

**ACTION:** Temporary rule; 2021 fishing seasons notice.

**SUMMARY:** NMFS announces the limited opening of commercial and recreational red snapper in the exclusive economic zone (EEZ) of the South Atlantic for the 2021 fishing year. This notice announces the 2021 red snapper commercial season opening date and the opening and closing dates for the red snapper recreational season, according to the accountability measures (AMs). This season announcement for South Atlantic red snapper allows fishers to maximize their opportunity to harvest the commercial and recreational annual catch limits (ACLs) while also managing harvest to protect the red snapper resource.

**DATES:** The 2021 commercial red snapper season opens at 12:01 a.m., local time, July 12, 2021. The 2021 recreational red snapper season opens at

12:01 a.m., local time, on July 9, 2021, and closes at 12:01 a.m., local time, on July 12, 2021, unless changed by subsequent notification in the **Federal Register**.

**FOR FURTHER INFORMATION CONTACT:**

Mary Vara, NMFS Southeast Regional Office, telephone: 727–824–5305, email: [mary.vara@noaa.gov](mailto:mary.vara@noaa.gov).

**SUPPLEMENTARY INFORMATION:** The South Atlantic snapper-grouper fishery includes red snapper and is managed under the Fishery Management Plan for the Snapper-Grouper Fishery of the South Atlantic Region (FMP). The South Atlantic Fishery Management Council (Council) prepared the FMP, and the FMP is implemented by NMFS under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) by regulations at 50 CFR part 622.

For South Atlantic red snapper, the commercial AM requires the sector to close when commercial landings reach or are projected to reach the commercial ACL. The recreational AM is the length of the recreational season, with NMFS projecting the season length based on catch rate estimates from previous years.

The commercial ACL is 124,815 lb (56,615 kg), round weight, and in 2020, NMFS closed the commercial sector on September 5 as a result of the commercial ACL being projected to be met (85 FR 54943; September 3, 2020). Subsequent to the commercial closure it was determined that the commercial ACL was exceeded in 2020 by 9,650 lb (4,377 kg), round weight. The recreational ACL is 29,656 fish, and preliminary landings information show this ACL was exceeded in the 4-day fishing season in 2020 by 13,116 fish. For 2021, NMFS has determined that the landings from the recreational sector are expected to reach the recreational ACL in 3 days.

The commercial season for South Atlantic red snapper begins each year on the second Monday in July and closes when the commercial ACL is reached or is projected to be reached. Accordingly, the 2021 commercial season opens on July 12, 2021, and will remain open until 12:01 a.m., local time, on January 1, 2022, unless the commercial ACL is reached or projected to be reached prior to this date. During the commercial fishing season, the commercial trip limit is 75 lb (34 kg), gutted weight. NMFS will monitor commercial landings during the open season, and if commercial landings reach or are projected to reach the commercial ACL, then NMFS will file a notification with the Office of the Federal Register to close the commercial

sector for red snapper for the remainder of the fishing year.

The recreational season for South Atlantic red snapper begins on the second Friday in July. Accordingly, the 2021 recreational red snapper season opens at 12:01 a.m., local time, on July 9, 2021, and closes at 12:01 a.m., local time, on July 12, 2021. During the recreational season, the recreational bag limit is one red snapper per person, per day. After the recreational sector closure, the bag and possession limits for red snapper are zero.

There is not a red snapper minimum or maximum size limit for the commercial and recreational sectors during the open seasons.

#### **Classification**

NMFS issues this action pursuant to section 305(d) of the Magnuson-Stevens

Act. This action is required by 50 CFR 622.183(b)(5)(i) and 622.193(y), which was issued pursuant to section 304(b), and is exempt from review under Executive Order 12866.

Pursuant to 5 U.S.C. 553(b)(B), there is good cause to waive prior notice and an opportunity for public comment on this action, as notice and comment would be unnecessary and contrary to the public interest. Such procedures are unnecessary because the rule establishing the red snapper ACLs and AMs has already been subject to notice and comment, and all that remains is to notify the public of the respective commercial and recreational fishing seasons. In addition, providing prior notice and an opportunity for public comment is contrary to the public interest because the seasons begin in early July and announcing the length of

the fishing seasons now allows each sector to prepare for the upcoming harvest, provides opportunity to for-hire fishing vessels to book trips that could increase their revenues and profits, and gives the South Atlantic states just enough time to prepare for their respective data collection needs for the season.

For the aforementioned reasons, the Acting Assistant Administrator for NMFS also finds good cause to waive the 30-day delay in the effectiveness of this action under 5 U.S.C. 553(d)(3).

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

Dated: June 3, 2021.

**Jennifer M. Wallace,**

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

[FR Doc. 2021-12004 Filed 6-4-21; 8:45 am]

**BILLING CODE 3510-22-P**

# Proposed Rules

Federal Register

Vol. 86, No. 108

Tuesday, June 8, 2021

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

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 39

[Docket No. FAA-2021-0453; Project Identifier MCAI-2021-00377-R]

RIN 2120-AA64

#### Airworthiness Directives; Airbus Helicopters

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Notice of proposed rulemaking (NPRM).

**SUMMARY:** The FAA proposes to supersede Airworthiness Directive (AD) 2021-04-15, which applies to all Airbus Helicopters Model AS355E, AS355F, AS355F1, AS355F2, AS355N, and AS355NP helicopters; and certain Model AS350B3 helicopters. AD 2021-04-15 requires repetitive visual inspections of the right-hand side of the vertical fin spar for discrepancies (cracking), and corrective action if necessary. Since the FAA issued AD 2021-04-15, the FAA has determined that additional actions are required to address the unsafe condition. This proposed AD would retain the requirements of AD 2021-04-15, and would require repetitive cleaning and repetitive detailed inspections for cracking of the vertical fin spar and vertical fin upper attachments, and corrective action if necessary, as specified in a European Union Aviation Safety Agency (EASA) AD, which is proposed for incorporation by reference (IBR). This proposed AD would also expand the applicability to include additional Model AS350B3 helicopters. The FAA is proposing this AD to address the unsafe condition on these products.

**DATES:** The FAA must receive comments on this proposed AD by July 23, 2021.

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

- **Federal eRulemaking Portal:** Go to <https://www.regulations.gov>. Follow the instructions for submitting comments.

- **Fax:** 202-493-2251.

- **Mail:** U.S. Department of Transportation, Docket Operations, M-30, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue SE, Washington, DC 20590.

- **Hand Delivery:** Deliver to Mail address above between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

For material that is proposed for IBR in this AD, contact the EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; telephone +49 221 8999 000; email [ADs@easa.europa.eu](mailto:ADs@easa.europa.eu); internet [www.easa.europa.eu](http://www.easa.europa.eu). You may find this IBR material on the EASA website at <https://ad.easa.europa.eu>. You may view this material at the FAA, Office of the Regional Counsel, Southwest Region, 10101 Hillwood Pkwy., Room 6N-321, Fort Worth, TX 76177. For information on the availability of this material at the FAA, call 817-222-5110. It is also available in the AD docket on the internet at <https://www.regulations.gov> by searching for and locating Docket No. FAA-2021-0453.

#### 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-2021-0453; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this NPRM, any comments received, and other information. The street address for Docket Operations is listed above. Comments will be available in the AD docket shortly after receipt.

**FOR FURTHER INFORMATION CONTACT:** Kathleen Arrigotti, Program Manager, Large Aircraft Section, International Validation Branch, Compliance & Airworthiness Division, FAA, 2200 South 216th St., Des Moines, WA 98198; telephone and fax 206-231-3218; email [kathleen.arrigotti@faa.gov](mailto:kathleen.arrigotti@faa.gov).

#### SUPPLEMENTARY INFORMATION:

##### Comments Invited

The FAA invites you to send any written relevant data, views, or arguments about this proposal. Send your comments to an address listed

under **ADDRESSES**. Include “Docket No. FAA-2021-0453; Project Identifier MCAI-2021-00377-R” at the beginning of your comments. The most helpful comments reference a specific portion of the proposal, explain the reason for any recommended change, and include supporting data. The FAA will consider all comments received by the closing date and may amend this proposal because of those comments.

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

#### Confidential Business Information

CBI is commercial or financial information that is both customarily and actually treated as private by its owner. Under the Freedom of Information Act (FOIA) (5 U.S.C. 552), CBI is exempt from public disclosure. If your comments responsive to this NPRM contain commercial or financial information that is customarily treated as private, that you actually treat as private, and that is relevant or responsive to this NPRM, it is important that you clearly designate the submitted comments as CBI. Please mark each page of your submission containing CBI as “PROPIN.” The FAA will treat such marked submissions as confidential under the FOIA, and they will not be placed in the public docket of this NPRM. Submissions containing CBI should be sent to Kathleen Arrigotti, Program Manager, Large Aircraft Section, International Validation Branch, Compliance & Airworthiness Division, FAA, 2200 South 216th St., Des Moines, WA 98198; telephone and fax 206-231-3218; email [kathleen.arrigotti@faa.gov](mailto:kathleen.arrigotti@faa.gov). Any commentary that the FAA receives that is not specifically designated as CBI will be placed in the public docket for this rulemaking.

#### Background

The FAA issued AD 2021-04-15, Amendment 39-21437 (86 FR 13165, March 8, 2021) (AD 2021-04-15), which applies to all Airbus Helicopters Model AS355E, AS355F, AS355F1, AS355F2,

AS355N, and AS355NP helicopters; and certain Model AS350B3 helicopters. AD 2021-04-15 requires repetitive visual inspections of the right-hand side of the vertical fin spar for cracking, and corrective action if necessary. The FAA issued AD 2021-04-15 to address cracking in the spar of the upper part of the vertical fin and fractures in the front attachment screws. This condition could lead to in-flight separation of the upper part of the vertical fin, resulting in loss of control of the helicopter.

#### **Actions Since AD 2021-04-15 Was Issued**

The preamble to AD 2021-04-15 explains that the FAA was considering further rulemaking to address the actions specified in paragraph (2) of EASA AD 2020-0186, dated August 20, 2020. The FAA has now determined that further rulemaking is indeed necessary, and this proposed AD follows from that determination. This proposed AD would require additional actions and would expand the applicability to include additional Airbus Helicopters Model AS350B3 helicopters (*i.e.*, Model AS350B3 helicopters modified through Eurocopter AS350 Service Bulletin 55.00.14 in service). Eurocopter AS350 Service Bulletin 55.00.14 was optional terminating action in EASA AD 2020-0186. However, helicopters modified by Eurocopter AS350 Service Bulletin 55.00.14 are affected by fatigue cracking and must be inspected. A terminating action is not included in this proposed AD.

The EASA, which is the Technical Agent for the Member States of the European Union, has issued EASA AD 2021-0099, dated April 9, 2021 (EASA AD 2021-0099) (also referred to as the Mandatory Continuing Airworthiness Information, or the MCAI), to correct an unsafe condition for all Airbus Helicopters Model AS355E, AS355F, AS355F1, AS355F2, AS355N, and AS355NP helicopters; and all Model AS350B3 helicopters except those that have that embodied Airbus Helicopters Modification 073148 in production. EASA stated that recent analysis identified that AS350B3 helicopters modified through Eurocopter AS350 Service Bulletin 55.00.14 (any revision) in service might also be affected by the identified unsafe condition.

This proposed AD was prompted by a determination that additional actions are required to address the unsafe

condition and additional helicopters are affected by the identified unsafe condition. This proposed AD was also prompted by a report that, during an unscheduled post-flight inspection of the tail cone area of an Airbus Helicopters Model AS355NP helicopter, a crack was found in the spar of the upper part of the vertical fin and fractures were found in the two front attachment screws. Airbus Helicopters Model AS350B3 helicopters have a similar vertical fin configuration and are subject to comparable load levels as the affected Model AS355NP helicopter, therefore, this model may be subject to the same unsafe condition revealed on the Model AS355NP helicopter. The FAA is proposing this AD to address cracking in the spar of the upper part of the vertical fin and fractures in the front attachment screws. This condition could lead to in-flight separation of the upper part of the vertical fin, resulting in loss of control of the helicopter. See the MCAI for additional background information.

#### **Related Service Information Under 1 CFR Part 51**

EASA AD 2021-0099 specifies procedures for repetitive visual inspections of the right-hand side of the vertical fin spar for cracking; repetitive cleaning and repetitive detailed inspections for cracking of the vertical fin spar and vertical fin upper attachments; and corrective action. The corrective action includes repair.

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

#### **FAA's Determination and Requirements of This Proposed AD**

These products have been approved by the aviation authority of another country, and are approved for operation in the United States. Pursuant to the bilateral agreement with the State of Design Authority, the FAA has been notified of the unsafe condition described in the MCAI referenced above. The FAA is proposing this AD after evaluating all the relevant information and determining the unsafe condition described previously is likely to exist or develop in other products of these same type designs.

#### **Explanation of Retained Requirements**

Although this proposed AD does not explicitly restate the requirements of AD

2021-04-15, this proposed AD would retain all of the requirements of AD 2021-04-15. Those requirements are referenced in EASA AD 2021-0099, which, in turn, is referenced in paragraph (g) of this proposed AD.

#### **Proposed AD Requirements**

This proposed AD would require accomplishing the actions specified in EASA AD 2021-0099 described previously, as incorporated by reference, except for any differences identified as exceptions in the regulatory text of this AD.

#### **Explanation of Required Compliance Information**

In the FAA's ongoing efforts to improve the efficiency of the AD process, the FAA initially worked with Airbus and EASA to develop a process to use certain EASA ADs as the primary source of information for compliance with requirements for corresponding FAA ADs. The FAA has since coordinated with other manufacturers and civil aviation authorities (CAAs) to use this process. As a result, EASA AD 2021-0099 will be incorporated by reference in the FAA final rule. This proposed AD would, therefore, require compliance with EASA AD 2021-0099 in its entirety, through that incorporation, except for any differences identified as exceptions in the regulatory text of this proposed AD. Using common terms that are the same as the heading of a particular section in the EASA AD does not mean that operators need comply only with that section. For example, where the AD requirement refers to "all required actions and compliance times," compliance with this AD requirement is not limited to the section titled "Required Action(s) and Compliance Time(s)" in the EASA AD. Service information specified in EASA AD 2021-0099 that is required for compliance with EASA AD 2021-0099 will be available on the internet at <https://www.regulations.gov> by searching for and locating Docket No. FAA-2021-0453 after the FAA final rule is published.

#### **Costs of Compliance**

The FAA estimates that this proposed AD affects 650 helicopters of U.S. registry. The FAA estimates the following costs to comply with this proposed AD:

ESTIMATED COSTS FOR REQUIRED ACTIONS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Retained actions from AD 2021-04-15.	7 work-hours × \$85 per hour = \$595, per inspection/cleaning cycle.	\$0	\$595, per inspection/cleaning cycle.	\$386,750, per inspection/cleaning cycle.
New proposed actions .....	4 work-hours × \$85 per hour = \$340, per inspection/cleaning cycle.	0	\$340, per inspection/cleaning cycle.	\$221,000, per inspection/cleaning cycle.

The FAA estimates the following costs to do any necessary on-condition actions that would be required based on

the results of any required actions. The FAA has no way of determining the

number of helicopters that might need these on-condition actions:

ESTIMATED COSTS OF ON-CONDITION ACTIONS

Labor cost	Parts cost	Cost per product
4 work-hours × \$85 per hour = \$340 .....	\$17,052	\$17,392

**Authority for This Rulemaking**

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

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

**Regulatory Findings**

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

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

- (1) Is not a “significant regulatory action” under Executive Order 12866,
- (2) Would not affect intrastate aviation in Alaska, and
- (3) Would not have a significant economic impact, positive or negative, on a substantial number of small entities

under the criteria of the Regulatory Flexibility Act.

**List of Subjects in 14 CFR Part 39**

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

**The Proposed Amendment**

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

**PART 39—AIRWORTHINESS DIRECTIVES**

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

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

**§ 39.13 [Amended]**

- 2. The FAA amends § 39.13 by:
  - a. Removing Airworthiness Directive (AD) 2021-04-15, Amendment 39-21437 (86 FR 13165, March 8, 2021); and
  - b. Adding the following new AD:

**Airbus Helicopters:** Docket No. FAA-2021-0453; Project Identifier MCAI-2021-00377-R.

**(a) Comments Due Date**

The FAA must receive comments by July 23, 2021.

**(b) Affected Airworthiness Directives (ADs)**

This AD replaces AD 2021-04-15, Amendment 39-21437 (86 FR 13165, March 8, 2021) (AD 2021-04-15).

**(c) Applicability**

This AD applies to Airbus Helicopters specified in paragraph (c)(1) and (2) of this AD, certificated in any category.

- (1) Model AS355E, AS355F, AS355F1, AS355F2, AS355N, and AS355NP helicopters, all serial numbers.

- (2) Model AS350B3 helicopters, all serial numbers except those that have embodied Airbus Helicopters Modification 073148 in production.

**(d) Subject**

Joint Aircraft System Component (JASC) Code 5531, Vertical Stabilizer, Spar/Rib.

**(e) Unsafe Condition**

This AD was prompted by a report that, during an unscheduled post-flight inspection of the tail cone area of an Airbus Helicopters Model AS355NP helicopter, a crack was found in the spar of the upper fin and fractures were found in the two front attachment screws. The FAA is issuing this AD to address cracking in the spar of the upper part of the vertical fin and fractures in the front attachment screws. This condition could lead to in-flight separation of the upper part of the vertical fin, resulting in loss of control of the helicopter.

**(f) Compliance**

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

**(g) Requirements**

Except as specified in paragraph (h) of this AD: Comply with all required actions and compliance times specified in, and in accordance with, European Union Aviation Safety Agency (EASA) AD 2021-0099, dated April 9, 2021 (EASA AD 2021-0099).

**(h) Exceptions to EASA AD 2021-0099**

(1) Where EASA AD 2021-0099 refers to its effective date or to July 12, 2017, (the effective date of EASA AD 2017-0114, dated June 28, 2017), this AD requires using the effective date of this AD.

(2) The “Remarks” section of EASA AD 2021-0099 does not apply to this AD.

(3) Where EASA AD 2021-0099 refers to flight hours (FH), this AD requires using hours time-in-service.

(4) Where paragraph (4) of EASA AD 2021-0099 specifies to contact the manufacturer for approved repair instructions, for this AD, if

any cracking is detected during any inspection, repair before further flight using a method approved by the Manager, International Validation Branch, FAA. For a repair method to be approved by the Manager, International Validation Branch, as required by this paragraph, the Manager's approval letter must specifically refer to this AD.

(5) Where the service information referred to in EASA AD 2021-0099 specifies to perform a visual inspection for cracking on the "RH side of spar (a)" and "if you are not sure" remove the rear and the tail rotor gear box (TGB) fairings to perform a rotor inspection and do a dye-penetrant inspection, those actions are required by this AD if any crack indication (e.g., paint chips, dents, or swelling) is found during any inspection done without removing the rear and the TGB fairings.

(6) Where the service information referred to in EASA AD 2021-0099 specifies to perform a visual check for cracks in the "spars (a) of the top and bottom fins" and "if you are not sure" do a dye-penetrant inspection, the dye-penetrant inspection is required by this AD if any crack indication (e.g., paint chips, dents, or swelling) is found during any visual check (inspection).

(7) Where the service information referred to in EASA AD 2021-0099 specifies to check the integrity of the two thrust pad attachment screws for damage, for this AD, damage includes loosening, deformation, and nicks.

#### (i) Special Flight Permit

Special flight permits, as described in 14 CFR 21.197 and 21.199, are prohibited.

#### (j) Alternative Methods of Compliance (AMOCs)

(1) The Manager, International Validation Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the manager of the International Validation Branch, send it to the attention of the person identified in paragraph (k)(2) of this AD. Information may be emailed to: [9-AVS-AIR-730-AMOC@faa.gov](mailto:9-AVS-AIR-730-AMOC@faa.gov).

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

#### (k) Related Information

(1) For EASA AD 2021-0099, contact the EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; telephone +49 221 8999 000; email [ADS@easa.europa.eu](mailto:ADS@easa.europa.eu); internet [www.easa.europa.eu](http://www.easa.europa.eu). You may find this EASA AD on the EASA website at <https://ad.easa.europa.eu>. You may view this material at the FAA, Office of the Regional Counsel, Southwest Region, 10101 Hillwood Pkwy., Room 6N-321, Fort Worth, TX 76177. For information on the availability of this material at the FAA, call 817-222-5110. This material may be found in the AD docket on the internet at <https://www.regulations.gov>

by searching for and locating Docket No. FAA-2021-0453.

(2) For more information about this AD, contact Kathleen Arrigotti, Program Manager, Large Aircraft Section, International Validation Branch, Compliance & Airworthiness Division, FAA, 2200 South 216th St., Des Moines, WA 98198; telephone and fax (206) 231-3218; email [kathleen.arrigotti@faa.gov](mailto:kathleen.arrigotti@faa.gov).

Issued on June 2, 2021.

#### Lance T. Gant,

Director, Compliance & Airworthiness Division, Aircraft Certification Service.

[FR Doc. 2021-11965 Filed 6-7-21; 8:45 am]

BILLING CODE 4910-13-P

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 39

[FAA Docket No. FAA-2020-0994; Project Identifier AD-2020-00687-T]

RIN 2120-AA64

#### Airworthiness Directives; Gulfstream Aerospace Corporation Airplanes

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Proposed rule; withdrawal.

**SUMMARY:** The FAA is withdrawing a notice of proposed rulemaking (NPRM) that proposed to adopt a new airworthiness directive (AD) for certain Gulfstream Aerospace Corporation (Gulfstream) Model GVII-G600 airplanes. The NPRM was prompted by a report that a failure mode in the data concentration network (DCN) software causes the pitch attitude value to freeze on the primary flight display (PFD) for up to 20 seconds. The NPRM proposed to require updating the DCN and flight deck master operating system (MOS) software. Since issuance of the NPRM, the FAA has determined that there is not an unsafe condition because all affected airplanes have updated software. Accordingly, the NPRM is withdrawn.

**DATES:** As of June 8, 2021, the proposed rule, which published in the **Federal Register** on February 23, 2021 (86 FR 10875), is withdrawn.

**ADDRESSES:**

#### Examining the AD Docket

You may examine the AD docket at <https://www.regulations.gov> by searching for and locating Docket No. FAA-2020-0994; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this AD action, the regulatory evaluation,

any comments received, and other information. The street address for Docket Operations is U.S. Department of Transportation, Docket Operations, M-30, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue SE, Washington, DC 20590.

#### FOR FURTHER INFORMATION CONTACT:

Myles Jalalian, Aviation Safety Engineer, Atlanta ACO Branch, FAA, 1701 Columbia Avenue, College Park, GA 30337; phone: (404) 474-5572; fax: (404) 474-5606; email: [myles.jalalian@faa.gov](mailto:myles.jalalian@faa.gov).

#### SUPPLEMENTARY INFORMATION:

#### Background

The FAA issued an NPRM that proposed to amend 14 CFR part 39 by adding an AD that would apply to certain serial-numbered Gulfstream Model GVII-G600 airplanes. The NPRM published in the **Federal Register** on February 23, 2021 (86 FR 10875). The NPRM was prompted by a report of a failure mode in the DCN software that causes pitch attitude value to freeze on the PFD for up to 20 seconds, which results in temporarily incorrect pitch indications.

The effect is evident only if the pitch of the airplane changes during the 20 second reset window. After 20 seconds, the system returns to normal. The standby flight display and heads up display are unaffected by this failure mode and continue to display the correct pitch attitude. However, there is not an alert or annunciation that informs the flight crew of a stale (frozen) pitch display or potentially misleading flight information.

The NPRM proposed to require installing the MOS software update part number EB60001034-0106, updating the DCN software level to version 10.10.12 in support of the MOS software update, and operationally checking the installations. Incorrect pitch indications could result in the loss of control of the airplane during certain phases of flight during instrument meteorological conditions.

#### Actions Since the NPRM Was Issued

After issuance of the NPRM, the FAA received a comment from Gulfstream recommending the FAA withdraw the NPRM based on full fleet compliance. All Gulfstream Model GVII-G600 airplanes have corrected the unsafe condition by complying with the proposed software update. The FAA has determined that the unsafe condition has been removed from the fleet. In addition, since Gulfstream controls the software, it is unlikely the unsafe condition will be re-introduced.

Based on the above information, the FAA has determined that AD action is not warranted and the proposal should be withdrawn.

Withdrawal of the NPRM constitutes only such action and does not preclude the FAA from further rulemaking on this issue, nor does it commit the FAA to any course of action in the future.

### Regulatory Findings

Since this action only withdraws an NPRM, it is neither a proposed AD nor a final rule. This action, therefore, is not covered under Executive Order 12866 or the Regulatory Flexibility Act.

### List of Subjects in 14 CFR Part 39

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

### The Withdrawal

Accordingly, the notice of proposed rulemaking, which published in the **Federal Register** on February 23, 2021 (86 FR 10875), is withdrawn.

Issued on May 28, 2021.

**Lance T. Gant,**

*Director, Compliance & Airworthiness Division, Aircraft Certification Service.*

[FR Doc. 2021-11813 Filed 6-7-21; 8:45 am]

BILLING CODE 4910-13-P

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 71

[Docket No. FAA-2021-0418; Airspace Docket No. 21-ACE-12]

RIN 2120-AA66

### Proposed Amendment of Class E Airspace; New Madrid, MO

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Notice of proposed rulemaking (NPRM).

**SUMMARY:** This action proposes to amend Class E airspace extending upward from 700 feet above the surface at County Memorial Airport, New Madrid, MO. The FAA is proposing this action as a result of an airspace review caused by the decommissioning of the Malden Very High Frequency Omnidirectional Range collocated with Tactical Air Navigation (VORTAC) navigation aid as part of the VOR Minimum Operational Network (MON) Program. Controlled airspace is necessary for the safety and management of instrument flight rules (IFR) operations in the area.

**DATES:** Comments must be received on or before July 23, 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 20590-0001; Telephone: (800) 647-5527, or (202) 366-9826. You must identify the Docket No. FAA-2021-0418; Airspace Docket No. 21-ACE-12, 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/](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](mailto:fedreg.legal@nara.gov) or go to <https://www.archives.gov/federal-register/cfr/ibr-locations.html>.

**FOR FURTHER INFORMATION CONTACT:** John Fornito, Operations Support Group, Eastern Service Center, Federal Aviation Administration, 1701 Columbia Avenue, College Park, GA 30337; Telephone (404) 305-6364.

#### SUPPLEMENTARY INFORMATION:

#### Authority for This Rulemaking

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

#### Comments Invited

Interested persons are invited to comment on this proposed rulemaking by submitting such written data, views, or arguments, as they may desire. Comments that provide the factual basis

supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal.

Communications should identify both docket numbers (Docket No. FAA-2021-0418 and Airspace Docket No. 21-ACE-12) and be submitted in triplicate to DOT Docket Operations (see **ADDRESSES** section for the address and phone number). You may also submit comments through the internet at <https://www.regulations.gov>.

Persons wishing the FAA to acknowledge receipt of their comments on this action must submit with those comments a self-addressed stamped postcard on which the following statement is made: "Comments to FAA Docket No. FAA-2021-0418; Airspace Docket No. 21-ACE-12." The postcard will be date/time stamped and returned to the commenter.

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

#### Availability of NPRMs

An electronic copy of this document may be downloaded through the internet at <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/](https://www.faa.gov/air_traffic/publications/airspace_amendments/).

You may review the public docket containing the proposal, any comments received and any final disposition in person in the Dockets Office (see the **ADDRESSES** section for address and phone number) between 9:00 a.m. and 5:00 p.m., Monday through Friday, except federal holidays. An informal docket may also be examined between 8:00 a.m. and 4:30 p.m., Monday through Friday, except federal holidays at the office of the Eastern Service Center, Federal Aviation Administration, Room 350, 1701 Columbia Avenue, College Park, GA 30337.



### Availability and Summary of Documents for Incorporation by Reference

This document proposes to amend FAA Order 7400.11E, *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 proposes an amendment to 14 CFR part 71 to amend Class E airspace extending upward from 700 feet above the surface for County Memorial Airport, New Madrid, MO, as the Malden VORTAC has been decommissioned and all associated airspace extensions of Class E airspace extending upward from 700 feet above the surface, off the Malden VORTAC have been eliminated. The Class E airspace extending upward from 700 feet above the surface would be amended by increasing the radius to 10.3 miles (previously 6.3 miles).

Class E airspace designations are published in Paragraph 6005, 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 E airspace designations listed in this document will be published subsequently in the Order.

FAA Order 7400.11, *Airspace Designations and Reporting Points*, is

published yearly and effective on September 15.

### Regulatory Notices and Analyses

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

### Environmental Review

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

### Lists of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

### The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration

proposes to amend 14 CFR part 71 as follows:

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

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

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

#### § 71.1 [Amended]

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

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

\* \* \* \* \*

#### ACE MO E5 New Madrid, MO [Amend]

County Memorial Airport, New Madrid, MO  
(Lat. 36°32'07" N, long. 89°35'59" W)

That airspace extending upward from 700 feet above the surface within a 10.3-mile radius of the County Memorial Airport.

Issued in College Park, Georgia, on June 3, 2021.

**Andreese C. Davis,**

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

[FR Doc. 2021–11939 Filed 6–7–21; 8:45 am]

**BILLING CODE 4910–13–P**

# Notices

Federal Register

Vol. 86, No. 108

Tuesday, June 8, 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 COMMERCE

### Office of the Under Secretary for Economic Affairs

#### Advisory Committee on Data for Evidence Building

**AGENCY:** Office of the Under Secretary for Economic Affairs, U.S. Department of Commerce.

**ACTION:** Notice of public meeting.

**SUMMARY:** The Office of the Under Secretary for Economic Affairs is providing notice of an upcoming meeting of the Advisory Committee on Data for Evidence Building (ACDEB or Committee). This will constitute the ninth meeting of the Committee in support of its charge to review, analyze, and make recommendations on how to promote the use of Federal data for evidence building purposes. At the conclusion of the Committee's first and second year, it will submit to the Director of the Office of Management and Budget, Executive Office of the President, an annual report on the activities and findings of the Committee. This report will also be made available to the public.

**DATES:** June 18, 2021. The meeting will begin at approximately 9:00 a.m. and adjourn at approximately 11:00 a.m. (ET).

**ADDRESSES:** Those interested in attending the Committee's public meetings are requested to RSVP to [Evidence@bea.gov](mailto:Evidence@bea.gov) one week prior to each meeting. Agendas, background material, and meeting links will be accessible 24 hours prior to each meeting at [www.bea.gov/evidence](http://www.bea.gov/evidence).

Members of the public who wish to submit written input for the Committee's consideration are welcomed to do so via email to [Evidence@bea.gov](mailto:Evidence@bea.gov). Additional opportunities for public input will be forthcoming.

The safety and well-being of the public, committee members, and our staff are our top priority. In light of current travel restrictions and social-distancing guidelines resulting from the COVID-19 outbreak, each meeting will be held virtually.

**FOR FURTHER INFORMATION CONTACT:**

Gianna Marrone, Program Analyst, U.S. Department of Commerce, 4600 Silver Hill Road (BE-64), Suitland, MD 20746; phone (301) 278-9282; email [Evidence@bea.gov](mailto:Evidence@bea.gov).

**SUPPLEMENTARY INFORMATION:** The Foundations for Evidence-Based Policymaking Act (Pub. L. 115-435, Evidence Act 101(a)(2) (5 U.S.C. 315 (a))), establishes the Committee and its charge. It specifies that the Chief Statistician of the United States shall serve as the Chair and other members shall be appointed by the Director of the Office of Management and Budget (OMB). The Act prescribes a membership balance plan that includes: One agency Chief Information Officer; one agency Chief Privacy Officer; one agency Chief Performance Officer; three members who are agency Chief Data Officers; three members who are agency Evaluation Officers; and three members who are agency Statistical Officials who are members of the Interagency Council for Statistical Policy established under section 3504(e)(8) of title 44. Additionally, at least 10 members are to be representative of state and local governments and nongovernmental stakeholders with expertise in government data policy, privacy, technology, transparency policy, evaluation and research methodologies, and other relevant subjects. Committee members serve for a term of two years. Following a public solicitation and review of nominations, the Director of OMB appointed members per this balance plan and information on the membership can be found at [www.bea.gov/evidence](http://www.bea.gov/evidence). Any member appointed to fill a vacancy occurring before the expiration of the term for which the member's predecessor was appointed shall be appointed only for the remainder of that term.

The ACDEB is interested in the public's input on the issues it will consider, and requests that interested parties submit statements to the ACDEB via email to [Evidence@bea.gov](mailto:Evidence@bea.gov). Please use the subject line "ACDEB Meeting Public Comment." All statements will

be provided to the members for their consideration and will become part of the Committee's records. Additional opportunities for public input will be forthcoming as the Committee's work progresses.

ACDEB Committee meetings are open, and the public is invited to attend and observe. Those planning to attend are asked to RSVP to [Evidence@bea.gov](mailto:Evidence@bea.gov). The call-in number, access code, and meeting link will be posted 24 hours prior to each meeting on [www.bea.gov/evidence](http://www.bea.gov/evidence). The meetings are accessible to people with disabilities. Requests for foreign language interpretation or other auxiliary aids should be directed to Gianna Marrone at [Evidence@bea.gov](mailto:Evidence@bea.gov) two weeks prior to each meeting.

Dated: June 2, 2021.

**Alyssa Holdren,**

*Designated Federal Officer, U.S. Department of Commerce.*

[FR Doc. 2021-11908 Filed 6-7-21; 8:45 am]

**BILLING CODE 3510-MN-P**

## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-351-849]

#### Emulsion Styrene-Butadiene Rubber From Brazil: Preliminary Results of Antidumping Duty Administrative Review; 2019-2020

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

**SUMMARY:** The Department of Commerce (Commerce) has preliminarily assigned ARLANXEO Brasil S.A. (ARLANXEO Brasil), the sole respondent subject to this antidumping duty (AD) administrative review, an AD margin based on the application of adverse facts available (AFA). We invite interested parties to comment on these preliminary results.

**DATES:** Applicable June 8, 2021.

**FOR FURTHER INFORMATION CONTACT:**

Drew Jackson, AD/CVD Operations, Office IV, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482-4406.

**SUPPLEMENTARY INFORMATION:**

## Background

On October 30, 2020, Commerce published in the **Federal Register** the notice of initiation of an antidumping duty administrative review on emulsion styrene-butadiene rubber (ESB rubber) from Brazil, covering ARLANXEO Brasil for the period of review (POR) September 1, 2019, through August 31, 2020.<sup>1</sup> On November 19, 2020, Commerce issued the AD questionnaire to the sole mandatory respondent, ARLANXEO Brasil.<sup>2</sup> ARLANXEO Brasil did not respond to the AD questionnaire.

For a complete description of the events that followed the initiation of this review, see the Preliminary Decision Memorandum.<sup>3</sup> 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/>.

## Scope of the Order

The product covered by this review is certain ESB rubber from Brazil. For a full description of the scope see the Preliminary Decision Memorandum.

## Methodology

Commerce is conducting this review in accordance with sections 751(a)(1)(B) and (2) of the Tariff Act of 1930, as amended (the Act). Commerce is preliminarily relying upon facts otherwise available to determine a weighted-average dumping margin for ARLANXEO Brasil in this review. Commerce preliminarily finds that necessary information is not available on the record, and that ARLANXEO Brasil withheld information requested by Commerce, failed to provide the requested information in the form and manner requested, and significantly impeded the proceeding, warranting a determination on the basis of the facts available under sections 776(a)(1) and (2)(A)–(C) of the Act. Further, Commerce preliminarily determines

that ARLANXEO Brasil failed to cooperate to the best of its ability, and thus, Commerce is applying AFA in determining a margin for ARLANXEO Brasil, in accordance with section 776(b) of the Act. For a full description of the methodology underlying our conclusions regarding the application of AFA, see the Preliminary Decision Memorandum.

## Preliminary Results of the Administrative Review

We preliminarily determine that the following weighted-average dumping margin exists for the period September 1, 2019 through August 31, 2020:

Exporter/producer	Weighted-average margin (percent)
ARLANXEO Brasil S.A .....	67.99

## Assessment Rate

Upon completion of the administrative review, Commerce shall determine, and U.S. Customs and Border Protection (CBP) shall assess, antidumping duties on all appropriate entries covered by this review. 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.<sup>4</sup> If the preliminary results are unchanged for the final results, we will instruct CBP to apply an *ad valorem* assessment rate equal to ARLANXEO Brasil's weighted-average dumping margin in the final results of this review to all entries of subject merchandise during the POR from ARLANXEO Brasil.

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 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 final results of this administrative review, as provided by

section 751(a)(2)(C) of the Act: (1) The cash deposit rate for ARLANXEO Brasil will be equal to the weighted-average dumping margin established in the final results of this 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 previously investigated or reviewed companies not subject to this review, the cash deposit will continue to be the company-specific rate published for the most recently completed segment of this proceeding in which the company participated; (3) if the exporter is not a firm covered in this or a previously completed review, or in the original less-than-fair-value (LTFV) investigation, but the producer is, the cash deposit rate will be the rate established for the most recent segment for the producer of the merchandise; and (4) the cash deposit rate for all other producers or exporters will continue to be 19.61 percent, the all-others rate established in the LTFV investigation.<sup>5</sup> These cash deposit requirements, when imposed, shall remain in effect until further notice.

## Disclosure

Normally, Commerce discloses the calculations performed in connection with preliminary results to interested parties within five days after the date of public announcement or publication of this notice.<sup>6</sup> Because Commerce preliminarily applied a rate based entirely on AFA in accordance with section 776 of the Act, to the only mandatory respondent in this review, there are no calculations to disclose.

## Public Comment

Pursuant to 19 CFR 351.309(c), interested parties may submit case briefs to the Assistant Secretary for Enforcement and Compliance not later than 30 days after the date of publication of this notice, unless the Secretary alters the time limit. 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.<sup>7</sup> Parties who submit case briefs or rebuttal briefs in this administrative

<sup>1</sup> See *Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 85 FR 68840 (October 30, 2020).

<sup>2</sup> See Commerce's Letter, Initial AD Questionnaire, dated November 19, 2020 (AD Questionnaire).

<sup>3</sup> See Memorandum, "Decision Memorandum for the Preliminary Results of the Third Antidumping Duty Administrative Review: Emulsion Styrene Butadiene Rubber from Brazil; 2019–2020," dated concurrently with, and hereby adopted by, this notice (Preliminary Decision Memorandum).

<sup>4</sup> See section 751(a)(2)(C) of the Act.

<sup>5</sup> See *Emulsion Styrene-Butadiene Rubber from Brazil: Final Affirmative Determination of Sales at Less Than Fair Value and Final Negative Determination of Critical Circumstances*, 82 FR 33048 (July 19, 2019); see also *Emulsion Styrene-Butadiene Rubber From Brazil, the Republic of Korea, Mexico, and Poland: Antidumping Duty Orders*, 82 FR 42790 (September 12, 2017).

<sup>6</sup> See 19 CFR 351.224(b).

<sup>7</sup> See 19 CFR 351.309(d); see also *Temporary Rule Modifying AD/CVD Service Requirements Due to COVID-19; Extension of Effective Period*, 85 FR 41363 (July 10, 2020).

review 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.<sup>8</sup>

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing must submit a written request to the Assistant Secretary for Enforcement and Compliance, filed electronically via ACCESS. An electronically filed document must be received successfully in its entirety by Commerce's electronic records system, ACCESS, by 5:00 p.m. Eastern Time within 30 days after the date of publication of this notice.<sup>9</sup>

Requests should contain: (1) The party's name, address and telephone number; (2) the number of participants; and (3) a list of issues to be discussed. Issues raised in the hearing will be limited to those raised in the respective case briefs. If a request for a hearing is made, Commerce intends to hold the hearing at a time and date to be determined.<sup>10</sup>

#### Final Results of Review

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 these preliminary results in the **Federal Register**, pursuant to section 751(a)(3)(A) of the Act, unless extended.

#### Notification to Importers

This notice 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 double antidumping duties.

#### Notification to Interested Parties

Commerce is issuing and publishing these results in accordance with sections 751(a)(1) and 777(i) of the Act and 19 CFR 351.221(b)(4).

Dated: June 2, 2021.

**Christian Marsh,**

*Acting Assistant Secretary for Enforcement and Compliance.*

#### Appendix

##### List of Topics Discussed in the Preliminary Decision Memorandum

##### I. Summary

<sup>8</sup> See 19 CFR 351.309(c)(2) and (d)(2).

<sup>9</sup> See 19 CFR 351.310(c).

<sup>10</sup> *Id.*

##### II. Background

##### III. Scope of the Order

##### IV. Application of Facts Available and Use of Adverse Inferences

##### V. Recommendation

[FR Doc. 2021-11954 Filed 6-7-21; 8:45 am]

**BILLING CODE 3510-DS-P**

## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-583-844]

#### Narrow Woven Ribbons With Woven Selvedge From Taiwan: Rescission of Antidumping Duty Administrative Review; 2019-2020

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

**SUMMARY:** The Department of Commerce (Commerce) is rescinding the administrative review of the antidumping duty (AD) order on narrow woven ribbons with woven selvedge (NWR) from Taiwan for the period of review (POR) September 1, 2019, through August 31, 2020, based on the timely withdrawal of the request for review.

**DATES:** Applicable June 8, 2021.

#### FOR FURTHER INFORMATION CONTACT:

David Crespo, AD/CVD Operations, Office II, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482-3693.

#### Background

On September 1, 2020, Commerce published in the **Federal Register** a notice of opportunity to request an administrative review of the AD order on NWR from Taiwan.<sup>1</sup> On September 30, 2020, Commerce received a timely request, in accordance with section 751(a) of the Tariff Act of 1930, as amended (the Act), from Berwick Offray LLC (the petitioner) to conduct an administrative review of the AD order on NWR from Taiwan with respect to Maple Ribbon Co., Ltd. (Maple Ribbon).<sup>2</sup>

On October 30, 2020, Commerce published in the **Federal Register** a notice of initiation of an administrative review of the AD order on NWR from

<sup>1</sup> See *Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity to Request Administrative Review*, 85 FR 54349 (September 1, 2020).

<sup>2</sup> See Petitioner's Letter, "Narrow Woven Ribbons with Woven Selvedge from Taiwan/Petitioner's Request for Administrative Review," dated September 30, 2020.

Taiwan with respect to this company.<sup>3</sup>

On November 9, 2020, Commerce issued the U.S. Customs and Border Protection (CBP) entry data for U.S. imports of subject merchandise during the POR.<sup>4</sup> On January 27, 2021, the petitioner timely withdrew its request for an administrative review with respect to Maple Ribbon.<sup>5</sup>

#### Rescission of Review

Pursuant to 19 CFR 351.213(d)(1), Commerce will rescind an administrative review, in whole or in part, if the party that requested the review withdraws the request within 90 days of the date of publication of the notice of initiation of the requested review. As noted above, the petitioner timely withdrew its request for review within the 90-day period. Because no other party requested a review of the AD order, we are rescinding this administrative review of the AD order on NWR from Taiwan for the POR in its entirety, in accordance with 19 CFR 351.213(d)(1).

#### Assessment

Commerce will instruct CBP to assess antidumping duties on all appropriate entries of NWR from Taiwan during the POR at rates equal to the cash deposit rates for estimated antidumping duties that were required at the time of entry, or withdrawal from warehouse, for consumption, in accordance with 19 CFR 351.212(c)(1)(i). Commerce intends to issue appropriate assessment instructions to CBP no earlier than 35 days after the date of publication of this rescission notice in the **Federal Register**.

#### Notification to Importers

This notice serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this 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.

<sup>3</sup> See *Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 85 FR 68840 (October 30, 2020).

<sup>4</sup> See Memorandum, "Release of U.S. Customs and Border Protection Entry Data," dated November 9, 2020.

<sup>5</sup> See Petitioner's Letter, "Narrow Woven Ribbons with Woven Selvedge from Taiwan/Petitioner's Withdrawal Of Request For Administrative Review Of Maple Ribbon Co., Ltd.," dated January 27, 2021.

### Notification Regarding Administrative Protective Order

This notice also serves as a reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of the return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a sanctionable violation.

### Notification to Interested Parties

This notice is issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Act, and 19 CFR 351.213(d)(4).

Dated: June 1, 2021.

#### Scot Fullerton,

Associate Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. 2021-11920 Filed 6-7-21; 8:45 am]

BILLING CODE 3510-DS-P

## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-570-044]

#### 1,1,1,2-Tetrafluoroethane (R-134a) From the People's Republic of China: Final Results of Antidumping Duty Administrative Review; 2019-2020

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

**SUMMARY:** The Department of Commerce (Commerce) finds that the sole company subject to this administrative review is part of the China-wide entity because it did not file a separate rate application (SRA). The period of review (POR) is April 1, 2019, through March 31, 2020.

**DATES:** Applicable June 8, 2021.

#### FOR FURTHER INFORMATION CONTACT:

Peter Zukowski, AD/CVD Operations, Office III, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482-0189.

#### SUPPLEMENTARY INFORMATION:

#### Background

On February 2, 2021, Commerce published the *Preliminary Results* of this administrative review of the antidumping duty order on 1,1,1,2-Tetrafluoroethane (R-134a) from the People's Republic of China (China) and

invited interested parties to comment.<sup>1</sup> We received no comments from interested parties on the *Preliminary Results*. Commerce conducted this administrative review in accordance with section 751 of the Tariff Act of 1930, as amended (the Act).

#### Scope of the Order

The merchandise covered by the order is 1,1,1,2-Tetrafluoroethane, R-134a, or its chemical equivalent, regardless of form, type, or purity level. The chemical formula for 1,1,1,2-Tetrafluoroethane is CF<sub>3</sub>-CH<sub>2</sub>F, and the Chemical Abstracts Service (CAS) registry number is CAS 811-97-2.<sup>2</sup>

Merchandise subject to the order is currently classified in the Harmonized Tariff Schedule of the United States (HTSUS) at subheading 2903.39.2020. Although the HTSUS subheading and CAS registry number are provided for convenience and customs purposes, the written description of the scope is dispositive.

#### Final Results of Review

Because we received no comments, we made no changes from the *Preliminary Results*. We continue to find that Puremann, Inc., the sole company subject to this review, did not file an SRA and has not demonstrated its eligibility for separate rate status and, therefore, is part of the China-wide entity. In this administrative review, no party requested a review of the China-wide entity, and Commerce did not self-initiate a review of the China-wide entity. Because no review of the China-wide entity is being conducted, the China-wide entity's entries were not subject to the review, and the rate applicable to the NME entity was not subject to change as a result of this review. The China-wide entity rate remains 167.02 percent.<sup>3</sup>

#### Assessment Rates

Commerce shall determine, and U.S. Customs and Border Protection (CBP) shall assess, antidumping duties on all appropriate entries in accordance with

<sup>1</sup> See *1,1,1,2-Tetrafluoroethane (R-134a) from the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review; 2019-2020*, 86 FR 7854 (February 2, 2021) (*Preliminary Results*).

<sup>2</sup> 1,1,1,2-Tetrafluoroethane is sold under a number of trade names including Klea 134a and Zephex 134a (Mexichem Fluor); Genetron 134a (Honeywell); Freon™ 134a, Suva 134a, Dymel 134a, and Dymel P134a (Chemours); Solkane 134a (Solvay); and Forane 134a (Arkema). Generically, 1,1,1,2-Tetrafluoroethane has been sold as Fluorocarbon 134a, R-134a, HFC-134a, HF A-134a, Refrigerant 134a, and UN3159.

<sup>3</sup> See *1,1,1,2 Tetrafluoroethane (R-134a) from the People's Republic of China: Antidumping Duty Order*, 82 FR 18422, 18423 (April 19, 2017).

section 751(a)(2)(C) of the Act and 19 CFR 351.212(b). Because we determined that Puremann, Inc. was not eligible for a separate rate and is part of the China-wide entity, we will instruct CBP to apply an *ad valorem* assessment rate of 167.02 percent to all entries of subject merchandise during the POR that were exported by Puremann, Inc.

Consistent with its recent notice,<sup>4</sup> 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 subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of this administrative review, as provided by section 751(a)(2)(C) of the Act: (1) For previously investigated or reviewed Chinese or non-Chinese exporters that received a separate rate in a prior segment of this proceeding, the cash deposit rate will continue to be the existing exporter-specific rate; (2) for all Chinese exporters of subject merchandise that have not been found to be entitled to a separate rate, the cash deposit rate will be that for the China-wide entity (*i.e.*, 167.02 percent); and (3) for all non-Chinese exporters of subject merchandise which have not received their own rate, the cash deposit rate will be the rate applicable to the Chinese exporter that supplied that non-Chinese exporter. These deposit requirements, when imposed, shall remain in effect until further notice.

#### Notification to Importers

This notice also serves as a reminder to importers of their responsibility under 19 CFR 315.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in Commerce's presumption that reimbursement of antidumping duties

<sup>4</sup> See *Notice of Discontinuation of Policy to Issue Liquidation Instructions After 15 Days in Applicable Antidumping and Countervailing Duty Administrative Proceedings*, 86 FR 3995 (January 15, 2021).

occurred and the subsequent assessment of double antidumping duties.

#### Notification Regarding Administrative Protective Order

This notice also serves as a reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

#### Notification to Interested Parties

We are issuing and publishing this notice in accordance with sections 751(a)(1) and 777(i) of the Act, and 19 CFR 351.213(h) and 351.221(b)(5).

Dated: June 2, 2021.

**Christian Marsh,**

*Acting Assistant Secretary for Enforcement and Compliance.*

[FR Doc. 2021-11997 Filed 6-7-21; 8:45 am]

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## DEPARTMENT OF COMMERCE

### International Trade Administration

[C-570-142]

#### Certain Walk-Behind Snow Throwers and Parts Thereof From the People's Republic of China: Postponement of Preliminary Determination in the Countervailing Duty Investigation

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

**DATES:** Applicable June 8, 2021.

**FOR FURTHER INFORMATION CONTACT:** Kate Sliney or Alex Cipolla at (202) 482-0324 or (202) 482-4956, respectively, AD/CVD Operations, Office III, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230.

#### SUPPLEMENTARY INFORMATION:

##### Background

On April 19, 2021, the Department of Commerce (Commerce) initiated a countervailing duty (CVD) investigation of imports of certain walk-behind snow throwers and parts thereof (snow throwers) from the People's Republic of China (China).<sup>1</sup> Currently, the

<sup>1</sup> See *Certain Walk-Behind Snow Throwers and Parts Thereof from the People's Republic of China:*

preliminary determination is due no later than June 23, 2021.

#### Postponement of Preliminary Determination

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

On May 28, 2021, the petitioner submitted a timely request that Commerce postpone the preliminary CVD determination.<sup>3</sup> The petitioner stated that it requests postponement “{t}o permit a thorough investigation and the calculation of the most accurate countervailing rates.”<sup>4</sup>

In accordance with 19 CFR 351.205(e), the petitioner has stated the reasons for requesting a postponement of the preliminary determination, and Commerce finds no compelling reason to deny the request. Therefore, in accordance with section 703(c)(1)(A) of the Act, Commerce is postponing the deadline for the preliminary determination to no later than 130 days after the date on which this investigation was initiated, *i.e.*, August 27, 2021. Pursuant to section 705(a)(1) of the Act and 19 CFR 351.210(b)(1), the deadline for the final determination of this investigation will continue to be 75 days after the date of the preliminary determination.

*Initiation of Countervailing Duty Investigation*, 86 FR 22022 (April 26, 2021) (*Initiation Notice*).

<sup>2</sup> The petitioner is MTD Products, Inc.

<sup>3</sup> See Petitioner's Letter, “Countervailing Duty Investigation of Certain Walk-Behind Snow Throwers and Parts Thereof from the People's Republic of China: Petitioner's Request to Postpone the Preliminary Determination,” dated May 28, 2021.

<sup>4</sup> *Id.*

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

Dated: June 2, 2021.

**Christian Marsh,**

*Acting Assistant Secretary for Enforcement and Compliance.*

[FR Doc. 2021-11952 Filed 6-7-21; 8:45 am]

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## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-549-502]

#### Circular Welded Carbon Steel Pipes and Tubes From Thailand: Preliminary Results of Antidumping Duty Administrative Review and Preliminary Determination of No Shipments; 2019-2020

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

**SUMMARY:** The Department of Commerce (Commerce) preliminarily finds that Saha Thai Steel Pipe Public Co., Ltd. (Saha Thai), and 26 non-examined companies, made sales of subject merchandise at less than normal value during the period of review (POR) March 1, 2019, through February 29, 2020. We further preliminarily determine that Blue Pipe Steel Center (Blue Pipe) and K Line Logistics (Thailand) Ltd. (K-Line) had no shipments during the POR. We invite interested parties to comment on these preliminary results.

**DATES:** Applicable June 8, 2021.

**FOR FURTHER INFORMATION CONTACT:** William Langley or Thomas Schauer, AD/CVD Operations, Office I, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482-3861 or (202) 482-0410, respectively.

#### SUPPLEMENTARY INFORMATION:

##### Background

In accordance with section 751(a)(2) of the Tariff Act of 1930, as amended (the Act), Commerce is conducting an administrative review of the antidumping duty order on circular welded carbon steel pipes and tubes (pipes and tubes) from Thailand. On May 6, 2020, in accordance with 19 CFR 251.221(c)(1)(i), we initiated the administrative review of the order<sup>1</sup> on

<sup>1</sup> See *Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 88 FR 26931 (May 6, 2020).

29 companies, including Blue Pipe, K-Line, and Saha Thai, which were selected for individual examination.<sup>2</sup>

On April 24, 2020, Commerce exercised its discretion to toll all deadlines in administrative reviews by 50 days.<sup>3</sup> On July 21, 2020, Commerce tolled all deadlines in preliminary and final results of administrative reviews by an additional 60 days.<sup>4</sup> On October 3, 2020, Commerce further extended the deadline for the preliminary results of this administrative review by 120 days, until June 1, 2021.<sup>5</sup> For a complete description of the events between the initiation of this review and these preliminary results, see the Preliminary Decision Memorandum.<sup>6</sup>

**Scope of the Order**

The products covered by the antidumping order are pipes and tubes from Thailand. For a full description of the scope of this order, see the Preliminary Decision Memorandum.<sup>7</sup>

**Methodology**

Commerce conducted this review in accordance with section 751(a)(2) of the Act. Export price is calculated in accordance with section 772 of the Act. Normal value is calculated 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 discussed in the Preliminary Decision Memorandum is attached in the appendix to this notice. The Preliminary Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to

<sup>2</sup> See Memorandum, "Circular Welded Carbon Steel Pipes and Tubes from Thailand: Respondent Selection," dated October 13, 2020.

<sup>3</sup> See Memorandum, "Tolling of Deadlines for Antidumping and Countervailing Duty Administrative Reviews in Response to Operational Adjustments Due to COVID-19 Government," dated April 24, 2020.

<sup>4</sup> See Memorandum, "Tolling of Deadlines for Antidumping and Countervailing Duty Administrative Reviews," dated July 21, 2020.

<sup>5</sup> See Memorandum, "Certain Welded Carbon Steel Pipes and Tubes from Thailand: Extension of Deadline for Preliminary Results of Antidumping Duty Administrative Review; 3/1/2019-2/29/2020," dated January 21, 2021.

<sup>6</sup> See Memorandum, "Circular Welded Carbon Steel Pipes and Tubes from Thailand: Decision Memorandum for the Preliminary Results of Antidumping Duty Administrative Review, and Preliminary Determination of No Shipments; 2018-2019," dated concurrently with, and hereby adopted by, this notice (Preliminary Decision Memorandum).

<sup>7</sup> See Preliminary Decision Memorandum at "Scope of the Order."

registered users at <http://access.trade.gov>. In addition, the signed Preliminary Decision Memorandum can be accessed directly at <http://enforcement.trade.gov/frn/>.

**Preliminary Determination of No Shipments**

Commerce selected Blue Pipe as a mandatory respondent because it and Saha Thai accounted for the largest volume of subject merchandise during the POR. Blue Pipe reported that its supplier, Saha Thai, had knowledge of the final destination of the subject merchandise that they produced and sold to Blue Pipe, and which Blue Pipe resold to U.S. customers during the POR, which Saha Thai confirmed in its responses.<sup>8</sup> Blue Pipe and Saha Thai provided sales documentation as evidence in support of their claim.<sup>9</sup> Because the evidence on the record demonstrates that Saha Thai had knowledge that the final destination of the subject merchandise was to customers in the United States, we preliminarily determine that Blue Pipe had no shipments of subject merchandise during the POR. We intend to instruct CBP at the final results to liquidate any existing entries of merchandise produced by Saha Thai and entered into the United States as having been exported by Blue Pipe at the rate applicable to Saha Thai.<sup>10</sup>

Based on an analysis of U.S. Customs and Border Protection (CBP) information, and comments provided by interested parties regarding the CBP data, Commerce preliminarily determines that K-Line had no shipments during the POR. For additional information regarding this determination, see the Preliminary Decision Memorandum.

**Preliminary Results of Review**

Commerce preliminarily determines that the following weighted-average dumping margins exist for the period

<sup>8</sup> See Blue Pipe's Letter, "Circular Welded Carbon Steel Pipes and Tubes from Thailand: Section A Questionnaire Response," dated November 10, 2020 at 22; and Saha Thai's Letter, "Saha Thai's Section A Questionnaire Response Circular Welded Carbon Steel Pipe and Tubes from Thailand (AR 19-20)," dated November 10, 2020 at 19 and 24-25; see also Blue Pipe's Letter, "Circular Welded Carbon Steel Pipes and Tubes from Thailand: 1st Supplemental Questionnaire Response—Part 2," dated March 1, 2021 at 2-3 and Exhibits 3-4; and Saha Thai's Letter, "Saha Thai's Supplemental Questionnaire Response Circular Welded Carbon Steel Pipe and Tubes from Thailand (AR 19-20)," dated February 24, 2021 at 5-6 and Exhibits 5-10.

<sup>9</sup> *Id.*

<sup>10</sup> See, e.g., *Certain Steel Nails from Taiwan: Final Results of Antidumping Duty Administrative Review and Final Determination of No Shipments; 2018-2019*, 85 FR 76014, 76015 (November 27, 2020).

March 1, 2019, through February 29, 2020:

Producer or exporter	Weighted-average dumping margin (percent)
Saha Thai Steel Pipe Public Company, Ltd .....	7.23
Apex International Logistics .....	7.23
Aquatec Maxcon Asia .....	7.23
Asian Unity Part Co., Ltd .....	7.23
Bis Pipe Fitting Industry Co., Ltd .....	7.23
Chuhatsu (Thailand) Co., Ltd .....	7.23
CSE Technologies Co., Ltd .....	7.23
Expeditors International (Bangkok) .....	7.23
Expeditors Ltd .....	7.23
FS International (Thailand) Co., Ltd .....	7.23
Kerry-Apex (Thailand) Co., Ltd ..	7.23
Oil Steel Tube (Thailand) Co., Ltd .....	7.23
Otto Ender Steel Structure Co., Ltd .....	7.23
Pacific Pipe and Pump .....	7.23
Pacific Pipe Public Company Limited .....	7.23
Panalpina World Transport Ltd ..	7.23
Polypipe Engineering Co., Ltd ...	7.23
Schlumberger Overseas S.A. ....	7.23
Siam Fittings Co., Ltd .....	7.23
Siam Steel Pipe Co., Ltd .....	7.23
Sino Connections Logistics (Thailand) Co., Ltd .....	7.23
Thai Malleable Iron and Steel ...	7.23
Thai Oil Group .....	7.23
Thai Oil Pipe Co., Ltd .....	7.23
Thai Premium Pipe Co., Ltd .....	7.23
Vatana Phaisal Engineering Company .....	7.23
Visavakit Patana Corp., Ltd .....	7.23

**Rate for Non-Examined Companies**

The statute and Commerce's regulations do not address the establishment of a weighted-average dumping margin to be applied to companies not selected for individual examination when Commerce limits its examination in an administrative review pursuant to section 777A(c)(2) of the Act. Generally, Commerce looks to section 735(c)(5) of the Act, which provides instructions for calculating the all-others rate in a less-than-fair-value investigation, for guidance when calculating the weighted-average dumping margin for companies which were not selected for individual examination in an administrative review. Under section 735(c)(5)(A) of the Act, the all-others rate is normally an amount equal to the weighted average of the estimated weighted-average dumping margins established for exporters and producers individually investigated, excluding rates that are zero, *de minimis* (i.e., less than 0.5 percent) or determined entirely on the basis of facts available.



Consistent with section 735(c)(5)(A) of the Act, we determined the weighted-average dumping margin for each of the non-selected companies by using the weighted-average dumping margin calculated for Saha Thai in this administrative review.

#### Assessment Rates

Upon completion of this administrative review, Commerce shall determine and CBP shall assess antidumping duties on all appropriate entries. If an examined respondent's weighted-average dumping margin is not zero or *de minimis* in the final results of this review, we will calculate importer-specific *ad valorem* assessment rates on the basis of the ratio of the total amount of dumping calculated for an importer's examined sales and the total entered value of such sales in accordance with 19 CFR 351.212(b)(1). For non-examined respondents, Commerce shall direct CBP to assess antidumping duties at an *ad valorem* rate equal to the company-specific weighted-average dumping margin determined in the final results of this review. Where either the respondent's weighted-average dumping margin is zero or *de minimis* within the meaning of 19 CFR 351.106(c), or an importer-specific assessment rate is zero or *de minimis*, we will instruct CBP to liquidate the appropriate entries without regard to antidumping duties.

Commerce clarified its "automatic assessment" regulation on May 6, 2003.<sup>11</sup> This clarification applies to entries of subject merchandise during the POR produced by Saha Thai for which it did not know its merchandise was destined for the United States. In such instances, we will instruct CBP to liquidate unreviewed entries at the all-others rate if there is no rate for the intermediate company(ies) involved in the transaction.

We intend 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 subject merchandise entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of this administrative review, as provided for by section 751(a)(2)(C) of the Act: (1) The cash deposit rate for the companies under review will be equal to the weighted-average dumping margin established in the final results of this review (except, if that rate is *de minimis*, then the cash deposit rate will be zero); (2) for previously reviewed or investigated companies not listed in the final results of this review, including those for which Commerce may determine had no shipments during the POR, the cash deposit rate will continue to be the company-specific rate published for the most recently completed segment of this proceeding; (3) if the exporter is not a firm covered in this review or another completed segment of this proceeding, 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; and (4) if neither the exporter nor the producer is a firm covered in this or any previously completed segment of this proceeding, then the cash deposit rate will be the all-others rate of 15.67 percent that was established in the less-than-fair-value investigation.<sup>12</sup> These deposit requirements, when imposed, shall remain in effect until further notice.

#### Disclosure and Public Comment

We intend to disclose the calculations performed to parties in this proceeding within five days after public announcement of the preliminary results in accordance with 19 CFR 351.224(b). Interested parties may submit case briefs not later than the date which Commerce will announce subsequent to 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.<sup>13</sup> 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.<sup>14</sup> Case and rebuttal briefs should be filed using

ACCESS<sup>15</sup> and must be served on interested parties.<sup>16</sup> Executive summaries should be limited to five pages total, including footnotes.

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing, must submit a written request to the Assistant Secretary for Enforcement and Compliance, filed electronically via Commerce's electronic records system, ACCESS. Requests should contain: (1) The party's name, address and telephone number; (2) the number of participants; and (3) a list of issues to be discussed. Issues raised in the hearing will be limited to those raised by each party in their respective case brief.

Note that Commerce has temporarily modified certain of its requirements for serving documents containing business proprietary information, until further notice.<sup>17</sup> An electronically filed document must be received successfully in its entirety in ACCESS by 5 p.m. Eastern Time within 30 days after the date of publication of this notice.

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, unless extended, pursuant to section 751(a)(3)(A) of the Act.

#### Notification to Importers

This notice serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in Commerce's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

#### Notification to Interested Parties

We are issuing and publishing these preliminary results in accordance with sections 751(a)(1) and 777(i) of the Act, and 19 CFR 351.213(h) and 351.221(b)(4).

<sup>11</sup> For a full discussion of this clarification, see *Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties*, 68 FR 23954 (May 6, 2003).

<sup>12</sup> See *Antidumping Duty Order: Circular Welded Carbon Steel Pipes and Tubes from Thailand*, 51 FR 8341 (March 11, 1986).

<sup>13</sup> See *Temporary Rule Modifying AD/CVD Service Requirements Due to COVID-19; Extension of Effective Period*, 85 FR 41363 (July 10, 2020) (*Temporary Rule*).

<sup>14</sup> See 19 CFR 351.303 (for general filing requirements).

<sup>15</sup> See generally 19 CFR 351.303.

<sup>16</sup> See 19 CFR 351.303(f).

<sup>17</sup> See *Temporary Rule*.



Dated: June 1, 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 Determination of No Shipments
- V. Comparison to Normal Value
- VI. Particular Market Situation
- VII. Product Comparisons
- VIII. Determination Not to Select TPP as a Voluntary Respondent
- IX. Discussion of Methodology
- X. Recommendation

[FR Doc. 2021-11922 Filed 6-7-21; 8:45 am]

**BILLING CODE 3510-DS-P**

## DEPARTMENT OF COMMERCE

### International Trade Administration

#### Agency Information Collection Activities; Submission to the Office of Management and Budget (OMB) for Review and Approval; Comment Request; Application for Export Trade Certificate of Review

**AGENCY:** International Trade Administration, Commerce.

**ACTION:** Notice of information collection, request for comment.

**SUMMARY:** The Department of Commerce, in accordance with the Paperwork Reduction Act of 1995 (PRA), invites the general public and other Federal agencies to comment on proposed, and continuing information collections, which helps us assess the impact of our information collection requirements and minimize the public's reporting burden. The purpose of this notice is to allow for 60 days of public comment preceding submission of the collection to OMB.

**DATES:** To ensure consideration, comments regarding this proposed information collection must be received on or before August 9, 2021.

**ADDRESSES:** Interested persons are invited to submit written comments to Amanda Reynolds, Senior International Economist, International Trade Administration (ITA) by email to [amanda.reynolds@trade.gov](mailto:amanda.reynolds@trade.gov) or [PRAcomments@doc.gov](mailto:PRAcomments@doc.gov). Please reference OMB Control Number 0625-0125 in the subject line of your comments. Do not submit Confidential Business Information or otherwise sensitive or protected information.

#### FOR FURTHER INFORMATION CONTACT:

Requests for additional information or specific questions related to collection activities should be directed to Amanda Reynolds, Senior International Economist, (202) 482-4691 and email [Amanda.reynolds@trade.gov](mailto:Amanda.reynolds@trade.gov).

#### SUPPLEMENTARY INFORMATION:

##### I. Abstract

Title III of the Export Trading Company Act (hereinafter "the Act") of 1982 (Pub. L. 97-290, 15 U.S.C. 4001 *et seq.*), authorizes the Secretary of Commerce to issue, with the concurrence of the Attorney General, an Export Trade Certificate of Review to any person that establishes that its proposed export trade, export trade activities, and methods of operation meet the four standards found in Section 303(a) of the Act, 15 U.S.C. 4001 *et seq.* An Export Trade Certificate of Review provides the certificate holder and its members with limited antitrust immunity for specified export-related activities. Application for an Export Trade Certificate of Review is voluntary. The information to be collected is found at 15 CFR part 325.3—Export Trade Certificates of Review. The collection of information is necessary for both the Departments of Commerce and Justice to conduct an analysis, in order to determine whether the applicant and its members are eligible to receive the protection of an Export Trade Certificate of Review and whether the applicant's proposed export-related conduct meets the standards in Section 303(a) of the Act. The collection of information constitutes the essential basis of the statutory determinations to be made by the Secretary of Commerce and the Attorney General.

The Department of Commerce conducts its economic and legal analysis of the information supplied by applicants through the Office of Trade and Economic Analysis and the Office of the General Counsel. In the Department of Justice, analysis is conducted by the Antitrust Division.

Title III was enacted to reduce uncertainty regarding the application of U.S. antitrust laws to export activities. An Export Trade Certificate of Review provides its holder and members named in the Certificate with (a) protection from government actions under state and federal antitrust laws for the export conduct specified in the Certificate, and (b) certain protection from private suits, by limiting liability in private actions to actual damages when the challenged activities are covered by an Export Trade Certificate of Review.

##### II. Method of Collection

The form is sent by request to U.S. firms.

##### III. Data

*OMB Control Number:* 0625-0125.

*Form Number(s):* ITA-4093P.

*Type of Review:* Regular submission.

*Affected Public:* Business or other for-profit organizations; not-for-profit institutions, and state, local or tribal government.

*Estimated Number of Respondents:* 9.

*Estimated Time per Response:* 32 hours (application); 2 hours (annual report).

*Estimated Total Annual Burden Hours:* 440 hours.

*Estimated Total Annual Cost to Public:* \$0.

*Respondent's Obligation:* Voluntary.

*Legal Authority:* Title III of the Export Trading Company Act of 1982, 15 U.S.C. § 4011-4021.

##### IV. Request for Comments

We are soliciting public comments to permit the Department/Bureau to: (a) Evaluate whether the proposed information collection is necessary for the proper functions of the Department, including whether the information will have practical utility; (b) Evaluate the accuracy of our estimate of the time and cost burden for this proposed collection, including the validity of the methodology and assumptions used; (c) Evaluate ways to enhance the quality, utility, and clarity of the information to be collected; and (d) Minimize the reporting burden on those who are to respond, including the use of automated collection techniques or other forms of information technology.

Comments that you submit in response to this notice are a matter of public record. We will include or summarize each comment in our request to OMB to approve this ICR. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you may ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

**Sheleen Dumas,**

*Department PRA Clearance Officer, Office of the Chief Information Officer, Commerce Department.*

[FR Doc. 2021-11907 Filed 6-7-21; 8:45 am]

**BILLING CODE 3510-DR-P**

## DEPARTMENT OF COMMERCE

## International Trade Administration

[A-570-010, C-570-011]

**Crystalline Silicon Photovoltaic Products From the People's Republic of China: Notice of Rescission of Changed Circumstances Reviews**

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

**SUMMARY:** The Department of Commerce (Commerce) is rescinding the changed circumstances reviews (CCRs) of the antidumping duty (AD) and countervailing duty (CVD) orders on crystalline silicon photovoltaic products (solar products) from the People's Republic of China (China) with respect to certain off-grid portable small panels.

**DATES:** Applicable June 8, 2021.

**FOR FURTHER INFORMATION CONTACT:**

Mark Hoadley, Enforcement and Compliance, AD/CVD Operations, Office VII, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482-3148.

**SUPPLEMENTARY INFORMATION:****Background**

On July 28, 2020, Commerce published a notice of initiation of CCRs, and consideration of revocation of the *Orders*, in part, with respect to certain off-grid portable small panels, pursuant to a request by Maodi Solar Technology (Dongguan) Co. Ltd. (Maodi Solar).<sup>1</sup> On September 3, 2020, Commerce published the *Preliminary Results* of the CCRs, preliminarily determining to revoke the *Orders*, in part, with respect to certain off-grid portable small panels.<sup>2</sup> Commerce invited parties to comment on the *Preliminary Results* in accordance with 19 CFR 351.309(c)(1)(ii).<sup>3</sup> No party submitted comments on the *Preliminary Results*.

On April 19, 2021, Commerce extended the deadline for the final

<sup>1</sup> See *Crystalline Silicon Photovoltaic Products from the People's Republic of China: Notice of Initiation of Changed Circumstances Reviews, and Consideration of Revocation of the Antidumping and Countervailing Duty Orders in Part*, 85 FR 45373 (July 28, 2020); see also *Certain Crystalline Silicon Photovoltaic Products from the People's Republic of China: Antidumping Duty Order; and Amended Final Affirmative Countervailing Duty Determination and Countervailing Duty Order*, 80 FR 8592 (February 18, 2015) (*Orders*).

<sup>2</sup> See *Crystalline Silicon Photovoltaic Products from the People's Republic of China: Preliminary Results of Changed Circumstances Reviews, and Intent to Revoke Antidumping and Countervailing Duty Orders in Part*, 85 FR 54993 (September 3, 2020) (*Preliminary Results*).

<sup>3</sup> See *Preliminary Results*, 85 FR at 54996.

results of the CCRs by 45 days until June 2, 2021.<sup>4</sup>

On May 14, 2021, Maodi Solar informed Commerce that it “no longer wishes to pursue this action, and hereby withdraws its request for a finding of changed circumstances and partial revocation.”<sup>5</sup> No party submitted comments on Maodi Solar's withdrawal of its CCR requests.

**Rescission of Reviews**

Although it does not specifically reference CCRs, 19 CFR 351.213(d)(1) provides that Commerce will rescind an administrative review if the party requesting the review withdraws its request within 90 days of the date of publication of the notice of initiation of the requested review. Commerce's practice has been to apply the 90-day deadline to requests for CCRs. However, 19 CFR 351.213(d)(1) also provides that Commerce may extend the 90-day time limit for withdrawing the request for an administrative review if we determine that it is reasonable to do so. In this case, Maodi Solar requested a rescission of this review on May 14, 2021, which is beyond 90 days from the date of initiation. However, we note that no party has objected to Maodi Solar's rescission request. Additionally, Commerce has not expended significant resources conducting this review. Therefore, we determine that it is reasonable to extend the 90-day time limit in this instance. Consequently, Commerce has accepted Maodi Solar's rescission request in this case as timely and is now rescinding the CCRs. U.S. Customs and Border Protection will continue to suspend entries of subject merchandise at the appropriate cash deposit rate for all entries of solar products from China.

**Notification Regarding Administrative Protective Orders**

This notice also serves as a reminder to parties subject to the administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under an APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of the return or destruction of APO materials, or conversion to judicial protective order, is hereby requested. Failure to comply

<sup>4</sup> See Memorandum, “Crystalline Silicon Photovoltaic Products from the People's Republic of China: Extension of Deadline for Final Results of Changed Circumstances Reviews, and Revocation of the Antidumping and Countervailing Duty Orders in Part,” dated April 19, 2021.

<sup>5</sup> See Maodi Solar's Letter, “Crystalline Silicon Photovoltaic Products from the Peoples' Republic of China; Withdrawal of Request for Changed Circumstances Review,” dated May 14, 2021.

with the regulations and terms of an APO is a violation which is subject to sanction.

This notice is issued and published in accordance with sections 751(b)(1) and 777(i) of the Tariff Act of 1930, as amended.

Dated: June 2, 2021.

**James Maeder,**

*Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.*

[FR Doc. 2021-11921 Filed 6-7-21; 8:45 am]

**BILLING CODE 3510-DS-P**

## DEPARTMENT OF COMMERCE

**National Institute of Standards and Technology****Information Collection Activities; Submission to the Office of Management and Budget (OMB) for Review and Approval; Comment Request; Small- and Medium-Sized Business Complex Event COVID-19 Survey (Wave 3)**

The Department of Commerce will submit the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995, on or after the date of publication of this notice. We invite the general public and other Federal agencies to comment on proposed, and continuing information collections, which helps us assess the impact of our information collection requirements and minimize the public's reporting burden. Public comments were previously requested via the **Federal Register** on January 19, 2021 (86 FR 5140) during a 60-day comment period. This notice allows for an additional 30 days for public comments.

*Agency:* National Institute of Standards and Technology (NIST).

*Title:* Small and Medium Sized Business Complex Event COVID-19 Survey (Wave 3).

*OMB Control Number:* 0693-XXXX.

*Form Number(s):* None.

*Type of Request:* Regular.

*Number of Respondents:* 1,800.

*Average Hours per Response:* 15 minutes to 45 minutes.

*Estimated Time per Response:* 15 minutes per structured survey

(n=1,800); additional 45 minutes for the semi-structured survey add-on (n=300).

*Burden Hours:* 675 hours.

*Estimated Total Annual Burden*

*Hours:* 15 min. × 1,800 = 27,000; 45

min. × 300 = 13,500; Total = 40,500 min. = 675 hours.

*Needs and Uses:* In May 2020, researchers at NIST launched a

longitudinal effort to assess Complex Event Resilience of Small- and Medium-sized Enterprises (SMEs) during the COVID-19 pandemic. This effort was approved by the NIST Office of the Associate Director for Laboratory Programs, providing time for this work to be conducted.

As COVID-19 conditions persist, populations around the U.S. and the world have and will continue to experience heat waves, floods, hurricanes, fire, and drought during the period of virus transmission and into the period of recovery (e.g., Phillips et al., 2020). There were 22 \$1 billion extreme weather events in 2020. SMEs in areas vulnerable to natural hazards and disasters are particularly noteworthy in the context of COVID-19.

The goal of this longitudinal effort is to inform NIST research and recommendations as well as provide Federal partners (e.g., FEMA, NOAA, and SBA) with insights into how SMEs think about disaster readiness during the pandemic, both the transmission and recovery periods. The first and second waves of data collection took place during summer 2020 and fall 2020/winter 2021, respectively and were approved under the NIST Generic Clearance #0693-0078.

A third wave of data collection is proposed in order to address the research goals as SMEs begin to recover from the pandemic. This effort addresses the gap in research on the experiences of SMEs dealing with complex events generally and those that arise during a pandemic, specifically. This longitudinal study accounts for SME vulnerabilities, which may further amplify the impacts of a singular or complex event.

Proposed respondents to this data collection have already registered their interest in participation in the data collection (during Wave 2). The proposed collection is critical to understand the resilience of SMEs, which in turn allows NIST to refine recommendations relevant to SMEs. This is critical as SMEs and the communities in which they exist plan for future events while continuing to recover from COVID-19 impacts.

*Affected Public:* The private sector.  
*Frequency:* Once.

*Respondent's Obligation:* Voluntary. This information collection request may be viewed at [www.reginfo.gov](http://www.reginfo.gov). Follow the instructions to view the Department of Commerce collections currently under review by OMB.

Written comments and recommendations for the proposed information collection should be submitted within 30 days of the

publication of this notice on the following website [www.reginfo.gov/public/do/PRAMain](http://www.reginfo.gov/public/do/PRAMain). Find this particular information collection by selecting "Currently under 30-day Review—Open for Public Comments" or by using the search function and entering the title of the collection.

**Sheleen Dumas,**

*Department PRA Clearance Officer, Office of the Chief Information Officer, Commerce Department.*

[FR Doc. 2021-11930 Filed 6-7-21; 8:45 am]

**BILLING CODE 3510-13-P**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### Agency Information Collection Activities; Submission to the Office of Management and Budget (OMB) for Review and Approval; Comment Request; NOAA Coastal Ocean Program Grants Proposal Application Package

**AGENCY:** National Oceanic & Atmospheric Administration (NOAA), Commerce.

**ACTION:** Notice of information collection, request for comment.

**SUMMARY:** The Department of Commerce, in accordance with the Paperwork Reduction Act of 1995 (PRA), invites the general public and other Federal agencies to comment on proposed, and continuing information collections, which helps us assess the impact of our information collection requirements and minimize the public's reporting burden. The purpose of this notice is to allow for 60 days of public comment preceding submission of the collection to OMB.

**DATES:** To ensure consideration, comments regarding this proposed information collection must be received on or before August 9, 2021.

**ADDRESSES:** Interested persons are invited to submit written comments to Adrienne Thomas, NOAA PRA Officer, at [Adrienne.thomas@noaa.gov](mailto:Adrienne.thomas@noaa.gov). Please reference OMB Control Number 0648-0384 in the subject line of your comments. Do not submit Confidential Business Information or otherwise sensitive or protected information.

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information or specific questions related to collection activities should be directed to Laurie Golden, Grants Administrator, 240-533-0285 or [laurie.golden@noaa.gov](mailto:laurie.golden@noaa.gov).

**SUPPLEMENTARY INFORMATION:**

## I. Abstract

This request is for a revision and extension of a currently approved information collection. The National Oceanic and Atmospheric Administration's Coastal Ocean Program (COP), now known as the Competitive Research Program (CRP) under the National Centers for Coastal Ocean Science, provides direct financial assistance through grants and cooperative agreements for research supporting the management of coastal ecosystems and the NOAA RESTORE Science Program (RSP). The statutory authority for COP is Public Law 102-567 Section 201 (Coastal Ocean Program). NOAA was authorized to establish and administer the Restore Science Program, in consultation with the U.S. Fish and Wildlife Service, by the Resources and Ecosystems Sustainability, Tourist Opportunities, and Revived Economies (RESTORE) of the Gulf States Act of 2012 (Pub. L. 112-141, Section 1604). Identified in the RESTORE Act as the Gulf Coast Ecosystem restoration Science, Observation, Monitoring, and Technology Program, the Program is commonly known as the NOAA RESTORE Science Program. In addition to standard government application requirements, applicants for financial assistance are required to submit a project summary form, current and pending form, and a key contacts form for both programs. CRP recipients are required to file annual progress reports and a project final report using CRP formats. The RSP are required to file semi-annual progress reports, a final report, and a Gantt chart showing project milestones using RSP formats. All of these requirements are needed for better evaluation of proposals and monitoring of awards.

Revisions to the approved annual and final reports for CRP include the request for publication digital object identifiers (DOIs). Additional information requested for RSP semi-annual and final reports include end-user details.

## II. Method of Collection

Respondents have a choice of either electronic or paper forms.

## III. Data

*OMB Control Number:* 0648-0384.

*Form Number:* None.

*Type of Review:* Regular submission (revision/extension of a currently approved collection).

*Affected Public:* Non-profit institutions; State, local, or tribal government; business or other for-profit organizations.

*Estimated Number of Respondents:* 1,200.

*Estimated Time per Response:* 30 minutes each for a project summary, key contacts and current and pending federal support; 6 hours for a semi-annual report; 6 hours for an annual report, 10.5 hours for a CRP final report, 10.5 hours for the RSP final report; and 1 hour for the milestone Gantt chart.

*Estimated Total Annual Burden Hours:* 1,875.

*Estimated Total Annual Cost to Public:* \$0 in recordkeeping/reporting costs.

*Respondent's Obligation:* Mandatory.

#### IV. Request for Comments

We are soliciting public comments to permit the Department/Bureau to: (a) Evaluate whether the proposed information collection is necessary for the proper functions of the Department, including whether the information will have practical utility; (b) Evaluate the accuracy of our estimate of the time and cost burden for this proposed collection, including the validity of the methodology and assumptions used; (c) Evaluate ways to enhance the quality, utility, and clarity of the information to be collected; and (d) Minimize the reporting burden on those who are to respond, including the use of automated collection techniques or other forms of information technology.

Comments that you submit in response to this notice are a matter of public record. We will include or summarize each comment in our request to OMB to approve this ICR. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you may ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

#### Sheleen Dumas,

*Department PRA Clearance Officer, Office of the Chief Information Officer, Commerce Department.*

[FR Doc. 2021-12001 Filed 6-7-21; 8:45 am]

**BILLING CODE 3510-JS-P**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### Agency Information Collection Activities; Submission to the Office of Management and Budget (OMB) for Review and Approval; Comment Request; Atlantic Highly Migratory Species Permit Family of Forms

**AGENCY:** National Oceanic & Atmospheric Administration (NOAA), Commerce.

**ACTION:** Notice of information collection, request for comment.

**SUMMARY:** The Department of Commerce, in accordance with the Paperwork Reduction Act of 1995 (PRA), invites the general public and other Federal agencies to comment on proposed, and continuing information collections, which helps us assess the impact of our information collection requirements and minimize the public's reporting burden. The purpose of this notice is to allow for 60 days of public comment preceding submission of the collection to OMB.

**DATES:** To ensure consideration, comments regarding this proposed information collection must be received on or before August 9, 2021.

**ADDRESSES:** Interested persons are invited to submit written comments to Adrienne Thomas, NOAA PRA Officer, at [Adrienne.thomas@noaa.gov](mailto:Adrienne.thomas@noaa.gov). Please reference OMB Control Number 0648-0327 in the subject line of your comments. Do not submit Confidential Business Information or otherwise sensitive or protected information.

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information or specific questions related to collection activities should be directed to Clifford Hutt, Fishery Management Specialist, NOAA Fisheries Highly Migratory Species Management Division, at 301-427-8542 or [cliff.hutt@noaa.gov](mailto:cliff.hutt@noaa.gov).

#### SUPPLEMENTARY INFORMATION:

##### I. Abstract

This request is for the renewal and extension of a current information collection, which includes both vessel and dealer permits.

Under the provisions of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 *et seq.*), the National Oceanic and Atmospheric Administration's National Marine Fisheries Service (NMFS) is responsible for management of the Nation's marine fisheries. In addition, NMFS must comply with the United States'

obligations under the Atlantic Tunas Convention Act of 1975 (16 U.S.C. 971 *et seq.*). NMFS issues permits to fishing vessels and dealers in order to collect information necessary to comply with domestic and international obligations, secure compliance with regulations, and disseminate necessary information.

Regulations at 50 CFR 635.4 require that vessels participating in commercial and recreational fisheries for Atlantic highly migratory species (HMS) and dealers purchasing Atlantic HMS from a vessel obtain a Federal permit issued by NMFS. This action addresses the renewal of permit applications currently approved under PRA 0648-0327, including both vessel and Atlantic Tunas Dealer permits. Vessel permits include Atlantic Tunas (except Longline permits, which are approved under PRA 0648-0205), HMS Charter/Headboat, HMS Angling, and Swordfish General Commercial permits. This action also includes the one-time requirement for commercial vessels greater than 20 meters in length to obtain an International Maritime Organization/Lloyd's Registry (IMO/LR) number.

The burden estimates in this renewal are being updated to reflect increases in the number of permits issued each year, and a \$6 increase in the price of permits due to increased costs associated with maintaining and executing the program.

##### II. Method of Collection

Methods of submittal include online, email, and mail.

##### III. Data

*OMB Control Number:* 0648-0327.

*Form Number(s):* None.

*Type of Review:* Regular submission (extension of a current information collection).

*Affected Public:* Individuals or households; Business or other for-profit organizations.

*Estimated Number of Respondents:* 38,205.

*Estimated Time per Response:* Renewal of Atlantic Tunas Dealer Permit application, 5 minutes; renewal applications for the following vessel permits—Atlantic Tunas, HMS Charter/Headboat, HMS Angling, and Swordfish General Commercial, 10 minutes; initial Atlantic Tunas Dealer Permit application, 15 minutes; initial applications for the following vessel permits—Atlantic Tunas, HMS Charter/Headboat, HMS Angling, and Swordfish General Commercial, 35 minutes; One-time application for the IMO/LP number, 30 minutes.

*Estimated Total Annual Burden Hours:* 10,730.

*Estimated Total Annual Cost to Public:* \$978,013.

*Respondent's Obligation:* Mandatory.

*Legal Authority:* Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 *et seq.*), and the Atlantic Tunas Convention Act of 1975 (16 U.S.C. 971 *et seq.*).

#### IV. Request for Comments

We are soliciting public comments to allow the Department/Bureau to: (a) Evaluate whether the proposed information collection is necessary for the proper functions of the Department, including whether the information will have practical utility; (b) Evaluate the accuracy of our estimate of the time and cost burden for this proposed collection, including the validity of the methodology and assumptions used; (c) Evaluate ways to enhance the quality, utility, and clarity of the information to be collected; and (d) Minimize the reporting burden on those who are to respond, including the use of automated collection techniques or other forms of information technology.

Comments that you submit in response to this notice are a matter of public record. We will include or summarize each comment in our request to OMB to approve this ICR. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you may ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

**Sheleen Dumas,**

*Department PRA Clearance Officer, Office of the Chief Information Officer, Commerce Department.*

[FR Doc. 2021-11998 Filed 6-7-21; 8:45 am]

**BILLING CODE 3510-22-P**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

[RTID 0648-XB129]

#### Takes of Marine Mammals Incidental to Specified Activities; Taking Marine Mammals Incidental to Elkhorn Slough Tidal Marsh Restoration, Phase II in Monterey County, California

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and

Atmospheric Administration (NOAA), Commerce.

**ACTION:** Notice; request for comments on proposed Renewal incidental harassment authorization (IHA).

**SUMMARY:** NMFS received a request from the California Department of Fish and Wildlife (CDFW) for the Renewal of their currently active incidental harassment authorization (IHA) to take marine mammals incidental to the Elkhorn Slough Tidal Marsh Restoration Project (Phase II) which includes the excavation and movement of soil with heavy machinery for marsh restoration in Monterey County, California. These activities consist of activities that are covered by the current authorization but will not be completed prior to its expiration. Pursuant to the Marine Mammal Protection Act, prior to issuing the currently active IHA, NMFS requested comments on both the proposed IHA and the potential for renewing the initial authorization if certain requirements were satisfied. The Renewal requirements have been satisfied, and NMFS is now providing an additional 15-day comment period to allow for any additional comments on the proposed Renewal not previously provided during the initial 30-day comment period.

**DATES:** Comments and information must be received no later than June 23, 2021.

**ADDRESSES:** Comments should be addressed to Jolie Harrison, Chief, Permits and Conservation Division, Office of Protected Resources, National Marine Fisheries Service. Written comments should be submitted via email to [ITP.corcoran@noaa.gov](mailto:ITP.corcoran@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, including all attachments, must not exceed a 25-megabyte file size. Attachments to comments will be accepted in Microsoft Word or Excel or Adobe PDF file formats only. All comments received are a part of the public record and will generally be posted online at <https://www.fisheries.noaa.gov/permit/incidental-take-authorizations-under-marine-mammal-protection-act> without change. All personal identifying information (e.g., name, address) voluntarily submitted by the commenter may be publicly accessible. Do not submit confidential business information or otherwise sensitive or protected information.

**FOR FURTHER INFORMATION CONTACT:** Kim Corcoran, Office of Protected Resources, NMFS, (301) 427-8401. Electronic

copies of the original application, Renewal request, and supporting documents (including NMFS **Federal Register** notices of the original proposed and final authorizations, and the previous IHA), as well as a list of the references cited in this document, may be obtained online at: <https://www.fisheries.noaa.gov/permit/incidental-take-authorizations-under-marine-mammal-protection-act>. In case of problems accessing these documents, please call the contact listed above.

#### SUPPLEMENTARY INFORMATION:

##### Background

The Marine Mammal Protection Act (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 proposed or, if the taking is limited to harassment, a notice of a proposed incidental take authorization is provided to the public for review.

Authorization for incidental takings shall be granted if NMFS finds that the taking will have a negligible impact on the species or stock(s) and will not have an unmitigable adverse impact on the availability of the species or stock(s) for taking for subsistence uses (where relevant). Further, NMFS must prescribe the permissible methods of taking and other “means of effecting the least practicable adverse impact” on the affected species or stocks and their habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance, and on the availability of such species or stocks for taking for certain subsistence uses (referred to here as “mitigation measures”). Monitoring and reporting of such takings are also required. The meaning of key terms such as “take,” “harassment,” and “negligible impact” can be found in section 3 of the MMPA (16 U.S.C. 1362) and the agency’s regulations at 50 CFR 216.103.

NMFS’ regulations implementing the MMPA at 50 CFR 216.107(e) indicate that IHAs may be renewed for additional periods of time not to exceed one year for each reauthorization. In the notice of proposed IHA for the initial authorization, NMFS described the circumstances under which we would consider issuing a Renewal for this activity, and requested public comment on a potential Renewal under those

circumstances. Specifically, 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, or nearly identical, activities as described in the Detailed Description of Specified Activities section of the initial IHA issuance notice is planned or (2) the activities as described in the Detailed Description of Specified Activities section of the initial IHA issuance notice would not be completed by the time the initial IHA expires and a Renewal would allow for completion of the activities beyond that described in the **DATES** section of the notice of issuance of the initial IHA, provided all of the following conditions are met:

(1) 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).

(2) The request for renewal must include the following:

- 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).

- 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.

(3) 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.

An additional public comment period of 15 days (for a total of 45 days), with direct notice by email, phone, or postal service to commenters on the initial IHA, is provided to allow for any additional comments on the proposed Renewal. A description of the Renewal process may be found on our website at: [www.fisheries.noaa.gov/national/marine-mammal-protection/incidental-harassment-authorization-renewals](http://www.fisheries.noaa.gov/national/marine-mammal-protection/incidental-harassment-authorization-renewals). Any comments received on the potential

Renewal, along with relevant comments on the initial IHA, have been considered in the development of this proposed IHA Renewal, and a summary of agency responses to applicable comments is included in this notice. NMFS will consider any additional public comments prior to making any final decision on the issuance of the requested Renewal, and agency responses will be summarized in the final notice of our decision.

The NDAA (Pub. L. 108–136) removed the “small numbers” and “specified geographical region” limitations indicated above and amended the definition of “harassment” as it applies to a “military readiness activity.”

#### National Environmental Policy Act

The current action is consistent with categories of activities identified in Categorical Exclusion B4 (incidental harassment authorizations with no anticipated serious injury or mortality) of the Companion Manual for NOAA Administrative Order 216–6A, which do not individually or cumulatively have the potential for significant impacts on the quality of the human environment and for which we have not identified any extraordinary circumstances that would preclude this categorical exclusion. Accordingly, NMFS has preliminarily determined that the issuance of the proposed renewal qualifies to be categorically excluded from further NEPA review just as the initial IHA did.

#### History of Request

On March 13, 2020, NMFS issued an IHA to CDFW to take marine mammals incidental to construction activities associated with the second phase of the tidal marsh restoration project in Elkhorn Slough, California (85 FR 14640; March 13, 2021), effective from June 01, 2020 through May 31, 2021. On May 11, 2021, NMFS received an application for the Renewal of that initial IHA. Although the request was not received 60 days prior to the expiration date of the initial IHA, the applicant has been informed that the Renewal may not be issued until 60 days past the May 11, 2021 submission date. As described in the application for Renewal IHA, the activities for which incidental take is requested consist of activities that are covered by the initial authorization but will not be completed prior to its expiration. As required, the applicant also provided a preliminary monitoring report (available at <https://www.fisheries.noaa.gov/action/incidental-take-authorization-tidal-marsh-restoration-project-elkhorn->

*slough-phase-ii-2020*) which confirms that the applicant has implemented the required mitigation and monitoring, and which also shows that no impacts of a scale or nature not previously analyzed or authorized have occurred as a result of the activities conducted. However, NMFS did note that there were a few instances where work continued during the pupping season during what was noted as foggy or hard to see conditions. Despite the low visibility, there were no unexpected changes in behavior noted during the activity. These instances were rare and CDFW has been reminded to shut down activity during times where monitoring cannot be efficiently implemented, especially during pupping season (March–July).

#### Description of the Specified Activities and Anticipated Impacts

CDFW is unable to complete all of the planned work under the initial 2020 IHA for Phase II of the Elkhorn Slough Tidal Marsh Restoration Project. The initial IHA planned to restore 58 acres of saltmarsh habitat in two areas, Minhoto-Hester Restoration Area (subareas M4a–b, M5, and M6) and the Seal Bend Restoration Area (S1–S4) (Figure 1). To date, the majority of earthwork at the Minhoto-Hester Restoration Area has been completed, including earthwork in subareas M4a–b and M5, however outstanding work in subareas M5 and M6 will not be completed before the May 31, 2021 IHA expiration date. Therefore, CDFW has requested a Renewal IHA to authorize the take of marine mammals for a subset of the initially planned work that has not been completed which will include the outstanding work in subareas M5 and M6. A separate IHA application will be submitted by CDFW for the work at the Seal Bend Restoration Area which has not been initiated to date, and is expected to start later in the year. Of note, the work in the Minhoto-Hester Restoration Area has taken more days to conduct than initially expected, but the completion of work in that Area is still expected to occur within the total number of workdays contemplated in the initial IHA.

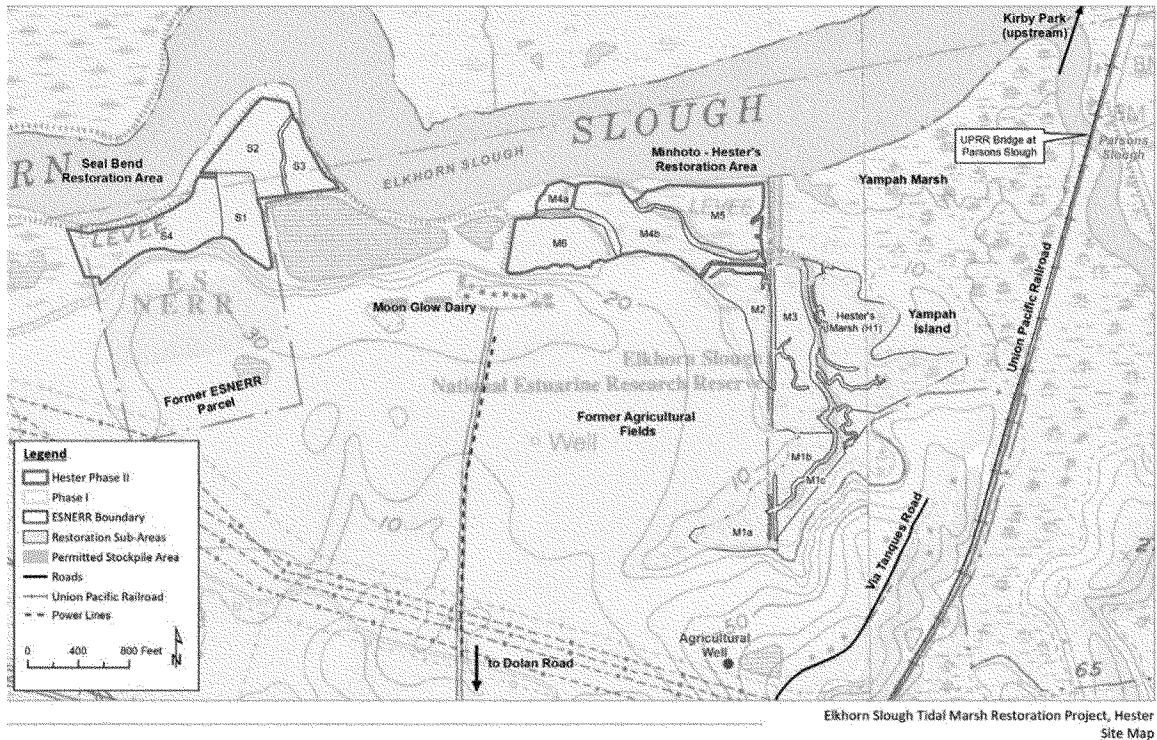
Anticipated impacts would include only Level B harassment of marine mammals (though fewer, since the duration of the proposed activity is shorter). CDFW’s request is for one species of pinniped by Level B harassment: Harbor seal (*Phoca vitulina richardii*). Monitoring results from the 2020 restoration activities indicate that observed exposures above Level B harassment thresholds were well below the amount authorized in associated with the amount of work conducted to



date (see monitoring report in renewal request letter). Thus, the subset of Level B harassment take remaining from that

authorized under the 2020 IHA will be sufficient to cover the remaining 2021

restoration work at the Minhoto-Hester Restoration Area.



**Figure 1 – Overview of Elkhorn Slough Tidal Marsh Restoration Project**

#### *Detailed Description of the Activity*

As discussed earlier, this is a Renewal to complete the subset of the activity not completed under the initial IHA (85 FR 14640; March 13, 2020). Due to construction delays attributed to severe weather in the winter of 2020 which limited the ability for heavy equipment to access and mobilize onsite in addition to smaller construction crew sizes than anticipated, only 118 days of work occurred between August 2020 and April 2021 of the 180 days anticipated and authorized for this project. The completed work to date includes the majority of earthwork at Minhoto-Hester Restoration Area in subareas M4a–b, and M5. As of the submission of their Renewal request, 62 days of work remains at the Minhoto-Hester Restoration Area which will occur between the time the Renewal is issued and September 2021. The applicant requests authorization for the work remaining as of June 1, 2021 which includes placement of additional

fill in subareas M5 and M6 (see Table 1) to raise the subsided marsh plain; excavation of tidal channels in all subareas; and rerouting tidal flow from the existing tidal channel adjacent to Yampah Marsh to the new tidal channel that bisects subareas M4b and M5. All of the remaining work is consistent with work described in the initial IHA. Table 1 (same as Table 1 from application and initial proposed) presents the acreages and extents of proposed fill within each marsh subarea, as well as the volume of fill required for each marsh subarea to be restored. The upland borrow area, onsite, would be used as the fill source. The project would rely primarily on natural vegetation recruitment in the restored marsh areas.

This Renewal request is identical to that of the 2020 IHA, in that it is comprised of a subset of the work that was covered in the initial IHA. The location, timing, and nature of the activities, including the types of equipment planned for use, are identical

to those described in the previous notices. The proposed Renewal would be effective until May 31, 2022 and does not authorize activities related to restoration work in the Seal Bend Restoration Area as a subsequent IHA application will be submitted by CDFW for such activities at a later date.

The mitigation and monitoring will be identical to that of the 2020 IHA. A detailed description of the restoration activities for which take is proposed may be found in the notices of the proposed (84 FR 72308; December 31, 2019) and the final IHAs (85 FR 14640; March 13, 2020) for the 2020 authorization. All documented associated with the 2020 IHA (*i.e.*, the IHA application, proposed IHA, final IHA, public comments, monitoring reports, etc.) can be found on NMFS's website, <https://www.fisheries.noaa.gov/action/incidental-take-authorization-tidal-marsh-restoration-project-elkhorn-slough-phase-ii-2020>.

TABLE 1—VOLUME OF FILL REQUIRED IN EACH SUB-AREA IN MINHOTO-HESTER RESTORATION AREA

Subarea	Area (acres)	Fill area (acres)	Estimated fill volume (CY)
Sub-area M4a .....	2.5	1.0	46,880
Sub-area M4b .....	9.7	7.3	44,516
Sub-area M5 .....	10.2	7.8	57,466
Sub-area H6 .....	6.8	5.5	33,792
Total .....	29.2	21.6	182,654

Source: ESA 2014a.

<sup>1</sup> Volumes are mid-range estimates; actual volumes may be higher or lower.

*Description of Marine Mammals*

A description of the marine mammals in the area of the activities for which authorization of take is proposed here, including information on abundance, status, distribution, and hearing, may be found in the notices of the proposed and final IHAs for the initial authorization. NMFS has reviewed the monitoring data from the initial IHA, recent draft Stock Assessment Reports, information on relevant Unusual Mortality Events, and other scientific literature, and determined that neither this nor any other new information affects which species or stocks have the potential to be affected or the pertinent information in the Description of the Marine Mammals in the Area of Specified Activities contained in the supporting documents for the initial IHA.

*Potential Effects on Marine Mammals and Their Habitat*

A description of the potential effects of the specified activity on marine mammals and their habitat for the activities for which take is proposed here may be found in the notices of the proposed and final IHAs for the initial authorization. NMFS has reviewed the monitoring data from the initial IHA, recent draft Stock Assessment Reports, information on relevant Unusual Mortality Events, and other scientific literature, and determined that neither this nor any other new information affects our initial analysis of impacts on marine mammals and their habitat.

*Estimated Take*

A detailed description of the methods and inputs used to estimate take for the

specified activity are found in the final IHA notice for the initial authorization. Specifically, the activity, days of operation, and marine mammal density data applicable to this authorization remain unchanged from the previously issued IHA. Similarly, the stock taken, method of take, and type of take remain unchanged from the previously issued IHA. The number of Level B harassment takes will be fewer since the proposed Renewal is for a subset of the days which can be seen in Table 2. The authorized take was determined by multiplying the daily take estimate (37.53) by the number of construction days remaining (62 days) at Minhoto-Hester Restoration Area and rounding up (Table 2).

TABLE 2—CALCULATED TAKE AND PERCENTAGE OF STOCK EXPOSED

Species	Authorized take		% population <sup>4</sup>
	Level B	Level A	
Pacific Harbor Seal .....	417 <sup>1</sup> max seals/day (9 percent <sup>2</sup> ) (62 days <sup>3</sup> ) = 2,327 .....	0	1.3

<sup>1</sup> Maximum number of seals observed/day between January 2018 and April 2019 by Reserve Otter Monitoring Project.

<sup>2</sup>% Take from Phase I.

<sup>3</sup>Number of construction days remaining in Minhoto-Hester Restoration Area.

<sup>4</sup>Data from U.S. Pacific Marine Mammal Stock Assessments: 2015 (Carretta *et al.*, 2015).

All estimates are considered conservative. Construction activities will occur in sections. Noise from construction activities in more southern sections may thus cause fewer disturbances to seals given their distance from seal haul outs (approximately 100 m and greater). There are unlikely to be 417 animals in the project area on any given day. Not all seals that previously used the haul outs within the footprint of the construction are expected use the haul outs just outside the project based on observations from Phase I of the project. Some seals may seek alternative haul out habitat in other parts of Elkhorn Slough.

*Description of Proposed Mitigation, Monitoring and Reporting Measures*

The proposed mitigation, monitoring, and reporting measures included as requirements in this authorization are identical to those included in the **Federal Register** notice announcing the issuance of the initial IHA, and the discussion of the least practicable adverse impact included in that document and the notice of the proposed IHA (84 FR 72308; December 31, 2019) remains accurate. The following measures are proposed for this renewal:

*Timing Restrictions*—All work must be conducted during daylight hours when visual monitoring of marine mammals can be implemented. If

environmental conditions deteriorate such that marine mammals within the entire shutdown zone would not be visible (*e.g.*, fog, heavy rain), construction must be delayed until the PSO is confident marine mammals within the shutdown zone could be detected.

*Visual Monitoring*—Required monitoring must be conducted by dedicated, trained, NMFS-approved PSO(s). PSOs shall establish a Level B harassment zone within 300 m of all construction activities. When construction activities occur either, (1) in water or (2); within the boundaries of the two tidal restoration areas, Minhoto-Hester and Seal Bend identified in



Figure 1, monitoring must occur every other day when work is occurring.

When construction activities occur near the “borrow” areas where marsh fill material is gathered, monitoring must occur every fifth day when work is occurring, unless the borrow area is more than 300 m from any area where marine mammals have been observed. Occurrence of marine mammals within the Level B harassment zone must be communicated to the construction lead to prepare for the potential shutdown when required.

**Pre-construction clearance and Ramp-up**—A 30-minute pre-clearance observation period must occur prior to the start of ramp-up and construction activities. CDFW must adhere to the following pre-clearance and ramp-up requirements: (i) Construction activities must not be initiated if any marine mammal is within 10 m of planned operations. If a marine mammal is observed within 10 m of planned operations during the 30-minute pre-clearance period, ramp-up must 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 other species), (ii) The construction contractor must begin construction activities gradually each day (*e.g.*, ramp up by moving around the project area and starting equipment sequentially).

**Shutdown Requirements**—For heavy machinery work, if a marine mammal comes within 10 m of such operations, operations must cease and vessels shall reduce speed to the minimum level required to maintain steerage and safe working conditions.

**Pupping Season**—Construction activities may not be initiated: (1) Within 300 m of a mom/pup pair that is hauled out, or (2) within 100 m of a mom/pup pair in the water. If there is a gap in construction activities of more than an hour or if construction moves to a different area, this initiation protocol must again be implemented. During site containment activities that are underway, heavy machinery must not approach closer than 100 m of where mothers and pups are actively hauled out. If a pup less than one week old (neonate) comes within 20 m of where heavy machinery is working, construction activities in that area must be shutdown or delayed until the pup has left the area. In the event that a pup less than one week old remains within those 20 m, NMFS will be consulted to determine the appropriate course of action.

Activities must cease if a marine mammal species for which take was not authorized, or a species for which authorization was granted but the authorized number of takes have been met, is observed by Protected Species Observers (PSOs) approaching or within the Level B harassment zone. Activities must not resume until the animal is confirmed to have left the area.

**Construction Activities**—A NMFS approved PSO must conduct biological resources awareness training for construction personnel. The awareness training will be provided to brief construction personnel on identification of marine mammals (including neonates) and the need to avoid and minimize impacts to marine mammals. If new construction personnel are added to the project, the contractor shall ensure that the personnel receive the mandatory training before starting work.

Construction activities must not be initiated if any marine mammal is within 10 m of planned operations. If a marine mammal is observed within 10 m of planned operations during the 30-minute pre-clearance period, ramp-up must 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 other species).

Furthermore, the PSO will have the authority to stop project activities if marine mammals approach or enter the Level B Harassment Zone and/or at any time for the safety of any marine mammals. Work will commence only with approval of the PSO to ensure that no marine mammals are present in the Level B Harassment Zone.

**Ramp Up**—To reduce the risk of potentially startling marine mammals with a sudden intensive sound, the construction contractor must begin construction activities gradually each day by moving around the project area and starting machinery one at a time.

Based on our evaluation of the applicant’s proposed measures, as well as other measures considered by NMFS, NMFS has preliminarily determined that the authorized mitigation measures provide the means effecting the least practicable impact on the affected species or stocks and their habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance.

### Monitoring and Reporting

Monitoring and reporting requirements prescribed by NMFS should contribute to improved understanding of one or more of the following:

- Occurrence of marine mammal species or stocks in the area in which take is anticipated (*e.g.*, presence, abundance, distribution, density).
  - Nature, scope, or context of likely marine mammal exposure to potential stressors/impacts (individual or cumulative, acute or chronic), through better understanding of: (1) Action or environment (*e.g.*, source characterization, propagation, ambient noise); (2) affected species (*e.g.*, life history, dive patterns); (3) co-occurrence of marine mammal species with the action; or (4) biological or behavioral context of exposure (*e.g.*, age, calving or feeding areas).
  - Individual marine mammal responses (behavioral or physiological) to acoustic stressors (acute, chronic, or cumulative), other stressors, or cumulative impacts from multiple stressors.
  - How anticipated responses to stressors impact either: (1) Long-term fitness and survival of individual marine mammals; or (2) populations, species, or stocks.
  - Effects on marine mammal habitat (*e.g.*, marine mammal prey species, acoustic habitat, or other important physical components of marine mammal habitat).
  - Mitigation and monitoring effectiveness.
- PSOs**—PSOs shall be used to detect, document, and minimize impacts to marine mammals, as well as, communicate with and instruct relevant construction crew with regard to the presence of marine mammals and mitigation requirements. Independent PSOs (*i.e.*, not construction personnel) who have no other assigned tasks during monitoring periods must be used. Biological monitoring will begin 30 minutes before work begins and will continue until 30 minutes after work is completed each day.
- PSOs will be placed at the best vantage point(s) practicable to monitor for marine mammals within the Level B harassment zone, defined above. If multiple construction activities occur simultaneously, enough PSOs must be on duty to monitor all Level B Harassment zones.
- Qualifications for PSOs for visual monitoring include:
- Visual acuity in both eyes (correction is permissible) sufficient for discernment of harbor seals on land or in the water with ability to estimate target size and distance; use of binoculars may be necessary to correctly identify the target.
  - Successfully attained a bachelor’s degree from an accredited college or university with a major in one of the

natural sciences and a minimum of 30 semester hours or equivalent in the biological sciences and at least one undergraduate course in math or statistics. The educational requirements may be waived if the PSO has acquired the relevant skills through alternate experience. Requests for such a waiver must include written justification. 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 marine mammal surveys; or (3) previous work experience as a PSO; the PSO should demonstrate good standing and consistently good performance of PSO duties.

- Experience and ability to conduct field observations and collect data according to assigned protocols (this may include academic experience).
- Experience or training in the field identification of marine mammals, including the identification of behaviors.
- Sufficient training, orientation, or experience with the construction operation to provide for personal safety during observations.
- Writing skills sufficient to prepare a report of observations including but not limited to the number and species of marine mammals observed; dates and times when construction activities were conducted; dates and times when construction activities were suspended to avoid potential incidental injury from construction sound or visual disturbance of marine mammals observed; and marine mammal behavior.
- Ability to communicate orally, by radio or in person, with project personnel to provide real-time

information on marine mammals observed in the area as necessary.

(a) PSOs must be provided with the equipment necessary to effectively monitor for marine mammals in order to record species, the distance from species' location to the construction activities, behaviors, and responses to construction activities.

(b) The PSO must also conduct biological resources awareness training for construction personnel. The awareness training will be provided to brief construction personnel on identification of marine mammals (including neonates) and the need to avoid and minimize impacts to marine mammals. If new construction personnel are added to the project, the contractor shall ensure that the personnel receive the mandatory training before starting work.

Monitoring requirements also include: *Pre-Activity Monitoring*—Pre and post construction daily censuses—A census of marine mammals in the project area and the area surrounding the project must be conducted 30 minutes prior to the beginning of construction on monitoring days, and again 30 minutes after the completion of construction activities. The following data will be collected:

- Environmental conditions (weather condition, tidal conditions, visibility, cloud cover, air temperature and wind speed)
  - Numbers of each marine mammal species spotted
  - Location of each species spotted, including distance from construction activity
  - Status (in water or hauled out)
  - Behavior
- Hourly Counts*—Conduct hourly counts of animals hauled out and in the water within, at least, the Level B harassment zone.

Data collected must include:

- Numbers of each species
- Location, including whether inside the Level B harassment zone; whether hauled out or in the water; and distance from construction activities (+/– 10 m)
- Time
- Tidal conditions
- Time construction activities start and end
- Primary construction activities occurring during the past hour
- Any noise or visual disturbance
- Number of mom/pup pairs and neonates observed
- Notable behaviors, including foraging, grooming, resting, aggression, mating activity, and others

Notes should include any of the following information to the extent it is feasible to record:

- Age-class
- Sex
- Unusual activity or signs of stress
- Any other information worth noting

*Construction Related Reactions*—Record reaction observed in relation to construction activities including:

- Tally of each reaction
- Time of reaction
- Concurrent construction activity
- The assumed cause (whether related to construction activities or not) shall be noted
- Disturbance must be recorded according to NMFS' three-point pinniped disturbance scale (see Table 3)
- Location of animal during initial reaction and distance from the noted disturbance
- Activity before and after disturbance
- Status (in water or hauled out) before and after disturbance

TABLE 3—PINNIPED BEHAVIORAL DISTURBANCE CODE REACTIONS

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.

**Reporting**

A draft marine mammal monitoring report would be submitted to NMFS within 90 days after the completion of pile driving and removal activities, or 60 days prior to a requested date of

issuance of any future IHAs for projects at the same location, whichever comes first. The report must include full documentation of methods, results, and interpretation pertaining to all monitoring. It shall also include marine mammal observations pre-activity,

during-activity, and post-activity of construction, and shall also provide descriptions of any behavioral responses by marine mammals due to disturbance from construction activities and a complete description of total take estimate based on the number of marine

mammals observed during the course of construction. The report must include an extrapolation of the estimated takes by Level B harassment based on the number of observed disturbances within the Level B harassment zone and the percentage of time the Level B harassment zone was not monitored; *i.e.*, 50 percent of time for the two restoration areas and 80 percent of the time for the borrow and other areas. If comments are received from the NMFS Office of Protected Resources on the draft report, a final report shall be submitted to NMFS within 30 days thereafter following resolution of comments on the draft report from NMFS. If no comments are received from NMFS, the draft report will be considered to be the final report. This report must contain the informational elements described above.

### Comments and Responses

As noted previously, NMFS published a notice of a proposed IHA (84 FR 72308; December 31, 2019) and solicited public comments on both our proposal to issue the initial IHA for CDFW's activity and on the potential for a Renewal IHA, should certain requirements be met. All public comments were addressed in the notice announcing the issuance of the initial IHA (85 FR 14640; March 13, 2020). Below, we describe how we have addressed, with updated information where appropriate, any comments received that specifically pertain to the Renewal of the 2020 IHA.

**Comment:** The Commission reiterated programmatic recommendations regarding NMFS' potential use of the renewal mechanism for 1 year IHAs; that NMFS refrain from issuing renewals for any authorization and instead use its abbreviated **Federal Register** notice process.

**Response:** In prior responses to comments about IHA Renewals (*e.g.*, 84 FR 52464; October 02, 2019 and 85 FR 53342, August 28, 2020), NMFS has explained how the Renewal process, as implemented, is consistent with the statutory requirements contained in section 101(a)(5)(D) of the MMPA, provides additional efficiencies beyond the use of abbreviated notices, and, further, promotes NMFS' goals of improving conservation of marine mammals and increasing efficiency in the MMPA compliance process. Therefore, we intend to continue implementing the Renewal process.

### Preliminary Determinations

NMFS has preliminarily concluded that there is no new information suggesting that our analysis or findings

should change from those reached for the initial IHA. Based on the information and analysis contained here and in the referenced documents, NMFS has determined the following: (1) The required mitigation measures will effect the least practicable impact on marine mammal species or stocks and their habitat; (2) the authorized takes will have a negligible impact on the affected marine mammal species or stocks; (3) the authorized takes represent small numbers of marine mammals relative to the affected stock abundances; (4) CDFW activities will not have an unmitigable adverse impact on taking for subsistence purposes as no relevant subsistence uses of marine mammals are implicated by this action, and; (5) appropriate monitoring and reporting requirements are included.

### 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 internally whenever we propose to authorize take for endangered or threatened species.

No incidental take of ESA-listed species is proposed for authorization or expected to result from this activity in the Elkhorn Slough Reserve. Therefore, NMFS has determined that formal consultation under section 7 of the ESA is not required for this action.

### Proposed Renewal IHA and Request for Public Comment

As a result of these preliminary determinations, NMFS proposes to issue a Renewal IHA to CDFW for conducting Phase II of the Elkhorn Slough Tidal Marsh Restoration Project in Elkhorn Slough located in Monterey County, California, provided the previously described mitigation, monitoring, and reporting requirements are incorporated. A draft of the proposed and final initial IHA can be found at <https://www.fisheries.noaa.gov/permit/incidental-take-authorizations-under-marine-mammal-protection-act>. We request comment on our analyses, the proposed Renewal IHA, and any other aspect of this notice. Please include with your comments any supporting data or literature citations to help inform our final decision on the request for MMPA authorization.

Dated: June 2, 2021.

**Catherine Marzin,**

*Acting Director, Office of Protected Resources, National Marine Fisheries Service.*

[FR Doc. 2021-11915 Filed 6-7-21; 8:45 am]

**BILLING CODE 3510-22-P**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

[RTID 0648-XB146]

#### Takes of Marine Mammals Incidental to Specified Activities; Taking Marine Mammals Incidental to Portsmouth Naval Shipyard Dry Dock 1 Modification and Expansion

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

**ACTION:** Notice; issuance of incidental harassment authorization.

**SUMMARY:** In accordance with the regulations implementing the Marine Mammal Protection Act (MMPA) as amended, notification is hereby given that NMFS has issued an IHA to the U.S. Navy (Navy) to incidentally harass, by Level B and Level A harassment, marine mammals incidental to Portsmouth Naval Shipyard (PNSY) Dry Dock 1 (DD1) modification and expansion in Kittery, Maine.

**DATES:** This authorization is effective from June 2, 2021 through June 1, 2022.

#### FOR FURTHER INFORMATION CONTACT:

Carter Esch, Office of Protected Resources, NMFS, (301) 427-8421. Electronic copies of the application and supporting documents, as well as a list of the references cited in this document, may be obtained online at: <https://www.fisheries.noaa.gov/permit/incidental-take-authorizations-under-marine-mammal-protection-act>. In case of problems accessing these documents, please call the contact listed above.

#### SUPPLEMENTARY INFORMATION:

##### Background

The MMPA prohibits the "take" of marine mammals, with certain exceptions. Sections 101(a)(5)(A) and (D) of the MMPA (16 U.S.C. 1361 *et seq.*) direct the Secretary of Commerce (as delegated to NMFS) to allow, upon request, the incidental, but not intentional, taking of small numbers of marine mammals by U.S. citizens who engage in a specified activity (other than commercial fishing) within a specified geographical region if certain findings are made and either regulations are

issued or, if the taking is limited to harassment, a notice of a proposed incidental take authorization may be provided to the public for review.

Authorization for incidental takings shall be granted if NMFS finds that the taking will have a negligible impact on the species or stock(s) and will not have an unmitigable adverse impact on the availability of the species or stock(s) for taking for subsistence uses (where relevant). Further, NMFS must prescribe the permissible methods of taking and other means of effecting the least practicable adverse impact on the affected species or stocks and their habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance, and on the availability of such species or stocks for taking for certain subsistence uses (referred to here as “mitigation”). Monitoring and reporting of such takings are also required. The meaning of key terms such as “take,” “harassment,” and “negligible impact” can be found in section 3 of the MMPA (16 U.S.C. 1362 and the agency’s regulations at 50 CFR 216.103.

**Summary of Request**

On October 22, 2020, NMFS received a request from the Navy for an IHA to take marine mammals incidental to modification and expansion of DD1 at PNSY in Kittery, Maine. The Navy submitted revised versions of the application on December 30, 2020, and January 19 and February 11, 2021. The application was deemed adequate and complete on February 19, 2021. The Navy’s request is for take of a small number of harbor porpoises, harbor seals, gray seals, harp seals, and hooded seals by Level B harassment and Level A harassment for a subset of these

species. Neither the Navy nor NMFS expects serious injury or mortality to result from this activity; therefore, an IHA is appropriate.

NMFS previously issued three IHAs to the Navy for waterfront improvement work, in 2016 (81 FR 85525; November 28, 2016), 2018 (83 FR 3318; January 24, 2018), 2019 (84 FR 24476, May 28, 2019), and a renewal of the 2019 IHA (86 FR 14598; March 17, 2021). As required, the applicant provided monitoring reports (available at: <https://www.fisheries.noaa.gov/national/marine-mammal-protection/incidental-take-authorizations-construction-activities>) which confirm that the applicant has implemented the required mitigation and monitoring, and which also shows that no impacts of a scale or nature not previously analyzed or authorized have occurred as a result of the activities conducted. This IHA covers the second year of a larger five-year project, for which the Navy also intends to request take authorization for subsequent dock modification and expansion at the PNSY.

**Description of the Specified Activity**

As part of its overall objective to modernize and maximize dry dock capabilities for performing current and future missions efficiently and with maximum flexibility, the Navy plans to modify and expand DD1 at the PNSY by constructing two new dry docking positions capable of servicing Virginia class submarines within the super flood basin of the dry dock. The in-water portion of the dock modification and expansion, which will occur within and at the boundaries of the super flood basin, includes: Construction of the west closure wall, construction of entrance structure closure walls, and

bedrock excavation. Construction activities include in-water impact pile driving, vibratory pile driving and removal, rock drilling, and underwater blasting. Underwater sounds produced by these activities may result in Level B harassment and Level A harassment of marine mammal species.

In-water construction activities are expected to occur between June 2021 and June 2022, with an estimated total of 29 days for pile driving and pile removal, 130 days for drilling of blast charge holes, and 130 days of blasting for bedrock excavation, for a total of 289 construction days. Some of these activities will occur on the same day, resulting in 159 total construction days over 12 months. However, as a conservative measure, construction days are accounted for as consecutive rather than concurrent activities in take estimates (see Estimated Take section). All in-water construction work will be limited to daylight hours, with the exception of pre-dawn (beginning no earlier than 3:00 a.m.) drilling of blast charge holes; drilling will not occur from sunset to pre-dawn. The daily construction timeframe for blasting will begin no sooner than 30 minutes after sunrise to allow for initial marine mammal monitoring to take place and will end at least 60 minutes before sunset to allow for post-activity monitoring.

A summary of in-water pile driving activity is provided in Table 1. In addition, a total of 1,580, 4.5-inch blast charge holes will be drilled at a rate of 12 holes per day over 130 days. The Navy anticipates one to two blast events per day, with a maximum of 6 blast events per week; a total of 150 blast events will occur over 130 days.

TABLE 1—SUMMARY OF IN-WATER PILE DRIVING ACTIVITIES

Pile purpose	Pile type	Pile size (inch)	Pile drive method	Total piles	Piles/day	Work days
West closure wall template .....	Steel pipe .....	30	Vibratory .....	13 installed .....	3	5
				13 removed .....	3	5
West closure wall construction .....	Flat-webbed steel sheet.	18	Vibratory .....	160 .....	12	13
Entrance structure temporary guide dolphin removal.	Steel pipe .....	30	Impact.			
Entrance structure closure wall construction.	Steel sheet .....	28	Vibratory .....	12 .....	8	2
			Impact.	44 .....	12	4
Total .....	.....	.....	.....	242 .....	.....	29

Construction activities will occur at the PNSY in Kittery, Maine. Please see Figures 1–1 to 1–6 in the Navy’s IHA application for detailed maps of the

project area and super flood basin. A detailed description of the planned modification and expansion of DD1 is provided in the **Federal Register** notice

for the proposed IHA (86 FR 18244; April 8, 2021). Since that time, no changes have been made to the planned activities. Therefore, a detailed

description is not provided here. Please refer to that **Federal Register** notice and the original proposed IHA documents referenced therein for a detailed description of the specified activity.

### Comments and Responses

A notice of NMFS' proposal to issue an IHA to the Navy was published in the **Federal Register** on April 8, 2021 (86 FR 18244). That notice described, in detail, the Navy's activity, the marine mammal species that may be affected by the activity, and the anticipated effects on marine mammals. During the 30-day public comment period, NMFS received comments from the Marine Mammal Commission (Commission). For full details of the comments, please see the Commission's letter, which is available online at: <https://www.fisheries.noaa.gov/national/marine-mammal-protection/incidental-take-authorizations-construction-activities#active-authorizations>. A summary of the Commission's recommendations as well as NMFS' responses is below.

*Comment 1:* As a result of its belief that NMFS did not provide the public with an adequate basis for review of NMFS' proposed action, due to what it asserts are errors in the notice of the proposed authorization, the Commission recommends that NMFS either deny the proposed incidental harassment authorization or publish a revised **Federal Register** notice and draft authorization with another 30-day comment period.

*Response:* NMFS does not agree with the Commission and does not adopt the recommendation. Although the initial **Federal Register** notice and proposed authorization contained certain errors and omissions, which have been addressed in this notice and authorization according to the Commission's recommendations, the description of the specified activity and analysis of potential acoustic impacts on marine mammals in the vicinity of the project area in the notice of the proposed authorization (86 FR 18422; April 8, 2021) provided sufficient information upon which to determine whether or not the activities would have a negligible impact on the species or stocks for which take is likely to occur, and on which the public had an opportunity to comment. The information utilized in take estimation (*i.e.*, source levels, thresholds, densities, and number of construction days for each specified activity) has largely been retained from the proposed to the final authorization, with the exception of revised source levels for impact pile driving of an 18-inch flat-webbed sheet

pile (which reduced the harassment zone sizes and take estimates for gray and harbor seals). The Commission noted that the thresholds associated with slight lung injury and mortality were incorrectly specified in the notice of the proposed IHA. However, the distances to the isopleths for onset of and 50 percent probability of gastrointestinal tract injury, and the resulting estimate of zero take for harbor porpoises and phocids, provided accurate information regarding the potential for this type of non-auditory injury. The distances to thresholds associated with gastrointestinal injury (harbor porpoises, 26 meters (m); phocids, 26 m), slight lung injury (harbor porpoises, 48 meters; phocids, 34 m) and mortality (harbor porpoises, 21 m; phocids, 18 m) calculated for the City of Juneau's Statter Harbor Project (see 84 FR 11066; March 25, 2019) are similar to each other in magnitude. The distances to slight lung injury and mortality thresholds are not expected to be substantially different for blasting at PNSY than those calculated for Statter Harbor, and would likely be within tens of meters from those estimated here for onset of and 50 percent probability of gastrointestinal tract injury. All of these zones would be smaller than the Level A harassment zones for harbor porpoises and phocids, and would be encompassed by the large shutdown zone for blasting at DD1. The mitigation requirements for blasting events, including the use of stemmed charges, installation of a double bubble curtain across openings to the super flood basin in which blasting will occur, and implementation of shutdown procedures, are sufficiently protective to minimize the potential for non-auditory injury such that the potential for non-auditory injury is considered discountable. No mortality is anticipated or authorized for these activities. Per the Commission's recommendations, additional mitigation and monitoring requirements for blasting have been incorporated into the issued authorization.

The majority of the Commission's comments pertained to errors or inconsistencies that have been addressed in this notice and the final authorization. NMFS' small numbers finding and negligible impact determination were not affected by the changes from the proposed to the final authorization; therefore, NMFS is not republishing a notice of the proposed authorization.

*Comment 2:* The Commission recommends that NMFS return the IHA application to the Navy as incomplete and refrain from processing future

authorization applications until the Commission's perceived issues are resolved.

*Response:* NMFS appreciates the Commission's concern but will consider any future requests for incidental take authorization from the Navy according to the requirements of the MMPA.

### Changes From the Proposed IHA to the Final IHA

The following corrections and additions have been incorporated into this notice and/or the issued IHA:

- Corrected the reference for the 28-inch Z-shaped sheet pile source level (NAVFAC 2020; Table 6);
- Revised source levels for impact pile driving of 18-inch flat-webbed sheet piles, as well as all associated acoustic analyses and take estimation;
- Included a description of transmission loss modeling, as well as the coefficients used to estimate Level B harassment zones for construction activities;
- Included the input parameters used to estimate Level A harassment zones for pile driving and removal, and blast-charge hole drilling (Table 8);
- Corrected distance to the Level B harassment isopleth for removal of 30-inch steel pipe piles to 13.6 kilometers (km) from 46 km (Table 8);
- Corrected typographical errors specifying ensonified zones in Tables 8 and 9;
- Included ranges to peak SPL thresholds for PTS for blasting events as a footnote of Table 9;
- Refined identification of the specific activities to which take is attributed (Table 11);
- Corrected take estimate for harbor porpoises (reduced from 6 to 4) to align with the IHA application, and adjusted take estimates for impact pile driving of 18-inch flat-webbed sheet piles based on revised source levels (Table 11);
- Added additional mitigation requirements for blasting, including (1) requiring stemmed charges, (2) restricting blasting to a time period at least 30 minutes after sunrise and one hour before sunset, (3) requiring monitoring to occur for at least one hour after blasting activities cease, (4) requiring that the Navy notify NMFS and the Greater Atlantic Regional Stranding Coordinator or local stranding network at least 24 hours prior to commencing a blasting event and within 24 hours after a blasting event ceases (if occurring on consecutive days, the Navy can provide notice of how long blasting is scheduled to last and when it has been completed), and (5) requiring that the Navy immediately report any injured or dead marine mammal to the

Greater Atlantic Regional Stranding Coordinator or local stranding network and follow any instructions provided by the Stranding Coordinator or stranding network;

- Clarified the number and potential locations of Protected Species Observers (PSOs);
- Clarified that pile driving/removal must only occur during daylight hours;
- Clarified in this notice that 10, 18-inch flat-webbed piles will be acoustically monitored during vibratory and impact pile driving, and 4, 30-inch steel piles will be monitored during vibratory pile driving, as was included in the draft IHA;
- Added hydroacoustic monitoring plan, which can be accessed at: <https://www.fisheries.noaa.gov/national/marine-mammal-protection/incidental-take-authorizations-construction-activities#active-authorizations>;
- Corrected contact information and requirements for reporting a dead or injured marine mammal to provide consistency between this notice and the IHA;
- Clarified that the IHA condition 4(e) applies to all activities; and

**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; <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' website: (<https://www.fisheries.noaa.gov/find-species>).

Table 2 lists the five marine mammal species, including one cetacean and four pinnipeds, with the potential to occur in the area of the specified activity and for which take is authorized for this action, and summarizes information related to the population or stock, including regulatory status under the MMPA and ESA and potential biological removal (PBR), where known. For taxonomy, NMFS follows Committee on Taxonomy (2020). PBR is defined by the MMPA as the maximum number of animals, not including natural mortalities, that may

be removed from a marine mammal stock while allowing that stock to reach or maintain its optimum sustainable population (as described in NMFS' SARs). While no mortality is anticipated or authorized here, PBR and annual serious injury and mortality from anthropogenic sources are included here as gross indicators of the status of the species and other threats.

Marine mammal abundance estimates presented in this document represent the total number of individuals that make up a given stock or the total number estimated within a particular study or survey area. NMFS' stock abundance estimates for most species represent the total estimate of individuals within the geographic area, if known, that comprises that stock. For some species, this geographic area may extend beyond U.S. waters. All managed stocks in this region are assessed in NMFS' U.S. Atlantic Marine Mammal SARs. All values presented in Table 2 are the most recent available at the time of publication and are available in the final 2019 SARs (Hayes *et al.*, 2020) and draft 2020 SARs, available online at: <https://www.fisheries.noaa.gov/national/marine-mammal-protection/draft-marine-mammal-stock-assessment-reports>).

TABLE 2—MARINE MAMMALS WITH POTENTIAL PRESENCE WITHIN THE PROJECT AREA

Common name	Scientific name	Stock	ESA/MMPA status; strategic (Y/N) <sup>1</sup>	Stock abundance (CV, N <sub>min</sub> , most recent abundance survey) <sup>2</sup>	PBR	Annual M/SI <sup>3</sup>
<b>Order Cetartiodactyla—Cetacea—Superfamily Odontoceti (toothed whales)</b>						
Family Phocoenidae (porpoises): Harbor porpoise .....	<i>Phocoena phocoena</i> .....	Gulf of Maine/Bay of Fundy	-; N	95,543 (0.31; 74,034; 2016) .....	851	217
<b>Order Carnivora—Superfamily Pinnipedia</b>						
Family Phocidae (earless seals): Harbor seal .....	<i>Phoca vitulina</i> .....	Western North Atlantic .....	-; N	75,834 (0.15, 66,884; 2012) .....	2,006	350
Gray seal .....	<i>Halichoerus grypus</i> .....	Western North Atlantic .....	-; N	27,131 <sup>4</sup> (0.19; 23,158; 2016) ...	1,389	4,729
Harp seal .....	<i>Pagophilus groenlandicus</i> ...	Western North Atlantic .....	-; N	Unknown (NA, NA) .....	unk	232,422
Hooded seal .....	<i>Cystophora cristata</i> .....	Western North Atlantic .....	-; N	Unknown (NA, NA) .....	unk	1,680

<sup>1</sup> 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.

<sup>2</sup> NMFS marine mammal stock assessment reports online at: <https://www.fisheries.noaa.gov/national/marine-mammal-protection/marine-mammal-stock-assessment-reports-region#reports>. CV is coefficient of variation; N<sub>min</sub> is the minimum estimate of stock abundance.

<sup>3</sup> These values, found in NMFS' SARs, represent annual levels of human-caused mortality plus serious injury from all sources combined (e.g., commercial fisheries, ship strike). Annual M/SI often cannot be determined precisely and is in some cases presented as a minimum value or range. A CV associated with estimated mortality due to commercial fisheries is presented in some cases.

<sup>4</sup> NMFS stock abundance estimate applies to U.S. population only, actual stock abundance is approximately 451,431. The PBR value presented is in relation to the U.S. population, whereas the annual M/SI value is for the entire stock.

Detailed descriptions of the species likely to be affected by the Navy's activities, including brief introductions to the species and relevant stocks as well as available information regarding population trends and threats, and information regarding local occurrence were provided in the notice of the

proposed IHA (86 FR 18244; April 8, 2021). Since that time, NMFS is not aware of any substantive new information regarding these species or stocks; therefore, detailed descriptions are not provided here. Please refer to that notice for descriptions. Please also refer to NMFS' website

([www.fisheries.noaa.gov/find-species](https://www.fisheries.noaa.gov/find-species)) for generalized species accounts.

**Marine Mammal Hearing**

Hearing is the most important sensory modality for marine mammals underwater, and exposure to anthropogenic sound can have

deleterious effects. To appropriately assess the potential effects of exposure to sound, it is necessary to understand the frequency ranges marine mammals are able to hear. Current data indicate that not all marine mammal species have equal hearing capabilities (e.g., Richardson *et al.*, 1995; Wartzok and Ketten, 1999; Au and Hastings, 2008). To reflect this, Southall *et al.* (2007) recommended that marine mammals be divided into functional hearing groups

based on directly measured or estimated hearing ranges on the basis of available behavioral response data, audiograms derived using auditory evoked potential techniques, anatomical modeling, and other data. Note that no direct measurements of hearing ability have been successfully completed for mysticetes (i.e., low-frequency cetaceans). Subsequently, NMFS (2018) described generalized hearing ranges for these marine mammal hearing groups.

Generalized hearing ranges were chosen based on the approximately 65 decibel (dB) threshold from the normalized composite audiograms, with the exception for lower limits for low-frequency cetaceans where the lower bound was deemed to be biologically implausible and the lower bound from Southall *et al.* (2007) retained. Marine mammal hearing groups and their associated hearing ranges are provided in Table 3.

TABLE 3—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, <i>Kogia</i> , river dolphins, cephalorhynchid, <i>Lagenorhynchus cruciger</i> & <i>L. australis</i> ).	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. As mentioned previously, five marine mammal species (one cetacean and four pinniped (all phocid) species) have the reasonable potential to co-occur with the construction activities. Please refer to Table 2. The only cetacean species that may be present, the harbor porpoise, is classified as a high-frequency cetacean.

**Potential Effects of Specified Activities on Marine Mammals and Their Habitat**

The effects of underwater noise from impact pile driving, vibratory pile driving and removal, drilling, and blasting activities for the Navy's modification and expansion of DD1 have the potential to result in Level B harassment (behavioral disturbance, TTS) for marine mammal species authorized for take. Level A harassment (injury) in the form of PTS may also occur in limited numbers of animals. No other forms of Level A harassment would occur, nor would serious injury or mortality. The project would not result in permanent impacts to habitats used directly by marine mammals, such

as haulout sites, but may have potential short-term impacts to food sources such as forage fish and impacts to the substrate during installation and removal of piles and as a result of bedrock removal. The **Federal Register** notice of the proposed IHA (86 FR 18244; April 8, 2021) included a discussion of the potential effects to marine mammals and their associated habitat, therefore, that information is not repeated here; please refer to the notice of proposed IHA for more details.

**Estimated Take**

This section provides an estimate of the number of incidental takes authorized by the IHA, which informed both NMFS' consideration of "small numbers" and the negligible impact determination.

Harassment is the only type of take expected to result from these activities. Except with respect to certain activities not pertinent here, section 3(18) of the MMPA defines "harassment" as any act of pursuit, torment, or annoyance, which (i) has the potential to injure a marine mammal or marine mammal stock in the wild (Level A harassment); or (ii) has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering (Level B harassment).

Authorized takes would be primarily by Level B behavioral harassment, as noise generated from in-water pile

driving (vibratory and impact), drilling, and blasting has the potential to result in disruption of behavioral patterns for individual marine mammals. The use of the explosive source (i.e., blasting) for a very short period each day has the potential to result in Temporary Threshold Shift (TTS), which is another form of Level B harassment. There is also some potential for auditory injury (Level A harassment) to result from impact pile driving and blasting in the form of Permanent Threshold Shift (PTS). The required mitigation and monitoring measures (see Mitigation Requirements and Monitoring and Reporting Requirements sections) are expected to minimize the severity of such taking to the extent practicable.

The primary relevant mitigation measure to minimize Level A harassment is delaying these activities, to the extent practicable, when any marine mammal is observed in the Level A harassment zones for PTS. While this requirement is expected to minimize take by Level A harassment, NMFS is authorizing takes by Level A harassment (in the form of PTS) to account for the possibility that marine mammals escape observation in the PTS zone and because the shutdown zones (see Mitigation Requirements section) are, in most cases, smaller than the Level A harassment zones. The distances to thresholds associated with the onset of and 50 percent probability of injury to the gastrointestinal tract for harbor porpoises (5 meters (m)) and phocids (9

m) are small enough that the mitigation and monitoring measures are expected to avoid the potential for such taking. As mentioned previously, distances to thresholds for slight lung injury and mortality are not modeled here, but are expected to have a similar small magnitude and range of values (tens of meters) as those reported for the Statter Harbor project (84 FR 11066; March 25, 2019). In conjunction with small zone sizes for onset of and 50 percent probability of gastrointestinal tract injury and NMFS' expectation that zone sizes for slight lung injury will be small, blasting will occur in a confined area that allows for effective observation with only one entrance to the basin that will be blocked by a bubble curtain during blasting events, within a large shutdown zone equivalent to the Level A harassment zone for harbor porpoises, all of which make it unlikely that these types of non-auditory injuries will occur. Therefore, the potential for non-auditory physical injury is considered discountable, and any takes by Level A harassment are expected to occur due to PTS.

As described previously, no mortality is anticipated or authorized for these activities. The method by which take is estimated is described below.

Generally speaking, NMFS estimates take by considering: (1) Acoustic thresholds above which NMFS believes marine mammals will be behaviorally harassed or incur some degree of permanent hearing impairment; (2) the area or volume of water that will be ensounded above these levels in a day; (3) the density or occurrence of marine mammals within these ensounded areas; and, (4) and the number of days of

activities. NMFS notes 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, NMFS describes the factors considered here in more detail and presents the authorized take.

*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 or experience TTS (equated to Level B harassment), or to incur PTS of some degree (equated to Level A harassment). Thresholds have also been developed to identify the pressure levels above which animals may incur different types of tissue damage from exposure to pressure waves from explosive detonations.

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 NMFS considers Level B behavioral harassment when exposed to underwater anthropogenic noise above received levels of 120 dB re 1  $\mu$ Pa (rms) for continuous (e.g., vibratory pile-driving, drilling) and above 160 dB re 1  $\mu$ Pa (rms) for impulsive and/or intermittent (e.g., impact pile driving) sources.

The Navy's Portsmouth Naval Shipyard modification and expansion project includes the use of continuous, or non-impulsive, (*i.e.*, vibratory pile driving and drilling) and impulsive (*i.e.*, impact pile driving) sources; therefore, the 120 and 160 dB re 1  $\mu$ Pa (rms) thresholds are appropriate.

Level A harassment for non-explosive sources—NMFS' Technical Guidance for Assessing the Effects of Anthropogenic Sound on Marine Mammal Hearing (Version 2.0) (NMFS, 2018) identifies dual criteria to assess auditory injury (Level A harassment) to five different marine mammal groups (based on hearing sensitivity) as a result of exposure to noise from two different types of sources (impulsive or non-impulsive). As noted above, the Navy's planned activity includes the use of impulsive and non-impulsive sources.

These thresholds are provided in Table 4. The references, analysis, and methodology used in the development of the thresholds are described in NMFS' 2018 Technical Guidance, which may be accessed at: <https://www.fisheries.noaa.gov/national/marine-mammal-protection/marine-mammal-acoustic-technical-guidance>.

TABLE 4—THRESHOLDS IDENTIFYING THE ONSET OF PERMANENT THRESHOLD SHIFT

Hearing group	PTS onset acoustic thresholds* (received level)	
	Impulsive	Non-impulsive
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.

\*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  $\mu$ Pa, and cumulative sound exposure level ( $L_E$ ) has a reference value of 1  $\mu$ Pa<sup>2</sup>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 (HF cetaceans and PW 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.

Explosive sources—Based on the best available science, NMFS uses the acoustic and pressure thresholds

indicated in Table 5 to predict the onset of behavioral harassment, PTS, and non-auditory impacts. Because of the

instantaneous nature of blasting, there is no established Level B behavioral harassment threshold associated with



the activity. A single detonation is not likely to disrupt behavioral patterns beyond a brief startle response, therefore, the 160 dB re 1  $\mu$ Pa (rms) threshold for behavioral harassment from impulsive acoustic sources is not applicable. However, TTS, which (as mentioned previously) is a form of Level B harassment take, may occur. The behavioral threshold used in analyses for multiple explosive events is determined relative to (5 dB less than) the TTS onset threshold (DoN 2017). The threshold associated with the onset of effect for non-auditory injury to the gastrointestinal tract (237 dB re 1  $\mu$ Pa (peak)) is used to determine the distances at which there is a one percent likelihood of injury occurring, informing mitigation measures rather than take estimates (DoN 2017). Take estimates are based on the 243 dB re 1  $\mu$ Pa (peak) threshold, the criterion used to predict the distances at which there is a 50 percent probability of gastrointestinal injury resulting from underwater explosions (DoN 2017). During the public comment period, the Marine Mammal Commission noted that the thresholds for slight lung injury and mortality were incorrectly specified in

the notice of the proposed IHA. However, the distances to isopleths associated with the onset of and 50 percent probability of gastrointestinal injury were correctly modeled, resulting in very small zone sizes, and the zone sizes for slight lung injury and mortality (although not presented here) are expected to be commensurate with those modeled for the City of Juneau’s Statter Harbor project (84 FR 11066; March 25, 2019), given that both projects (1) analyze acoustic impacts of confined blasting in drill shafts in underwater bedrock within a harbor/ basin, (2) utilize the same sound exposure level for blasting events, and (3) estimate transmission loss by combining spherical spreading with frequency-specific absorption loss to the environment. The size of the shutdown zone for blasting, relative to these small zones, is sufficiently large to discount the potential for this type of injury. The shutdown zone for blasting equates to the Level A harassment zone for harbor porpoises, which is a 0.335 square kilometers (km<sup>2</sup>) arc-shaped area that encompasses the super flood basin and extends into the Piscataqua River (shown in Figure 6–5 of the IHA application).

This shutdown zone fully encompasses the Level A harassment zone for phocids (0.01978 km<sup>2</sup>), and onset of (0.000254 km<sup>2</sup>) and 50 percent probability of (0.0008 km<sup>2</sup>) gastrointestinal injury zone. Further, the Navy will not begin blasting activities until one sheet pile face of the west closure wall is installed, thus providing an additional barrier to sound propagating into the environment beyond the super flood basin (reducing the maximum ensonified zone from 0.418 km<sup>2</sup> to 0.335 km<sup>2</sup>). In addition, the Navy will install a double bubble curtain at the entrance to the super flood basin during blasting and drilling activities within the basin, the attenuation from which (although not incorporated into the acoustic analyses presented here) will further reduce the impact of sound produced during these activities. The references, analysis, and methodology used in the development of the thresholds are described in NMFS 2018 Technical Guidance, which may be accessed at: <http://www.nmfs.noaa.gov/pr/acoustics/guidelines.htm>.

TABLE 5—EXPLOSIVE ACOUSTIC AND PRESSURE THRESHOLDS FOR MARINE MAMMALS

Group	Level B harassment		Level A harassment	Non-auditory	
	Behavioral (multiple detonations)	TTS	PTS	Gastro-intestinal tract (onset of effect)	Gastro-intestinal tract (injury)
High-Frequency (HF) Cetaceans.	135 dB SEL ...	140 dB SEL or 196 dB SPL <sub>pk</sub>	155 dB SEL or 202 dB SPL <sub>pk</sub>	237 dB SPL <sub>pk</sub> ...	243 dB SPL <sub>pk</sub>
Phocid Pinnipeds (PW) (Underwater).	165 dB SEL ...	170 dB SEL or 212 dB SPL <sub>pk</sub>	185 dB SEL or 218 dB SPL <sub>pk</sub>		

*Ensonified Area*

The operational and environmental parameters of the activity that fed into identifying the area ensonified above the acoustic thresholds, which include source levels and transmission loss, are described below.

Source Levels

The project includes impact pile driving, vibratory pile driving and pile removal, drilling, and blasting. Of these, only drilling and vibratory pile driving will occur concurrently. When two continuous noise sources have overlapping sound fields, there is a potential for higher sound levels (and a

larger associated ensonified zone) than for non-overlapping sources. When drilling and vibratory pile driving co-occur, the larger of the two shutdown zones will trigger mitigation measures.

Source levels of pile driving activities are based on reviews of measurements of the same or similar types and dimensions of piles available in the literature. Source levels for impact pile driving of a 30-inch steel pipe pile are used as a proxy for impact driving of 28-inch Z-shaped steel sheet piles (NAVFAC, 2020). Similarly, source levels for impact pile driving of an 18-inch flat-webbed sheet pile were unavailable, so proxy values for

installation of a 24-inch Z-shaped sheet pile are used. In the notice of the proposed IHA, the proxy source levels were incorrectly specified. As a result of NMFS’ review of public comment, the approach to estimating the source levels for this pile type was modified by taking the mean of the maximum values for each type of sound level in Table 1.6–5 of CALTRANS (2015), resulting in the decreased source levels shown in Table 6.

The source levels in Table 6 are assumed for pile driving and drilling underwater noise produced by construction activities.

TABLE 6—SUMMARY OF IN-WATER PILE DRIVING SOURCE LEVELS  
[at 10 m from source]

Pile type	Installation/extraction method	Pile diameter (inch)	SPL <sub>pk</sub> , dB re 1 μPa	SPL <sub>rms</sub> , dB re 1 μPa	SEL, dB re 1 μPa <sup>2</sup> -s
Z-shaped steel sheet <sup>1 3</sup>	Vibratory <sup>2</sup>	28	NA	167	167
	Impact <sup>3</sup>	28	211	196	181
Flat-webbed steel sheet <sup>1 4</sup>	Vibratory	18	NA	163	163
	Impact	18	201	183	172
Steel pipe <sup>2</sup>	Vibratory	30	NA	167	167
Blast holes <sup>5</sup>	Drilling	4.5	NA	166.2	166.2

Key: dB = decibels; NA = Not applicable; dB re 1 μPa = dB referenced to a pressure of 1 micropascal, measures underwater SPL. dB re 1 μPa<sup>2</sup>-s = dB referenced to a pressure of 1 micropascal squared per second, measures underwater SEL.

<sup>1</sup> = A proxy value for 28-inch sheet piles could not be found for impact and vibratory driving so the proxy for a 30-inch steel pipe pile has been used (NAVFAC SW 2020). A proxy value for 18-inch flat-webbed sheet piles could not be found for impact and vibratory driving so the proxy for a 24-inch Z-shaped sheet pile has been used (CALTRANS 2015).

Sources: DoN 2015<sup>2</sup>; NAVFAC SW 2020<sup>3</sup>; CALTRANS 2015<sup>4</sup>; Denes *et al.*, 2016.<sup>5</sup>

The proxy source level for drilling of blast-charge holes is derived from Denes *et al.* (2016), which reports sound pressure levels measured during rock socket drilling at Kodiak Ferry Terminal in Alaska. The size of the blast-charge holes considered here (4.5-inch) is much smaller than the size of the drilled holes (24-inch) in Denes *et al.* (2016), making the use of 166.2 dB re 1μPa conservative.

There are no data on sound source levels from explosives used under circumstances identical to the blasting activity described here (*e.g.*, charge composition and weight, bathymetry, substrate composition, and the dimensions of holes for stemmed charge placement). Therefore, the Navy made approximations by reference to mathematical models that have been empirically validated, under roughly comparable circumstances, to estimate source levels both in terms of absolute peak sound pressure level (SPL in units of dB re 1μPa) and sound exposure level (SEL in units of dB re 1μPa<sup>2</sup>-s) (Table 7). The peak source level calculation of a confined blast follows Cole’s (1948) equation and a regression curve from the Miami Harbor Deepening Project (Hempfen *et al.* 2007), using a distance of 2.4 m and a weight of 120 pounds (lbs) for a single charge. Based on this approach, the peak source level for the project is estimated to be 257 dB re 1 μPa for a 120 lb charge. Following Urick (1983), the Navy estimated the SEL for 30, 120 lb charges at 1 m by first calculating the instantaneous pressure following the onset of a shock wave, as a relationship between peak pressure and time. Blasting operations will involve detonating 120 lb up to 30 times in rapid succession, with a split second delay between each detonation. Without specific information regarding the layout of the charges, the modeling assumes a grid of 2.4 m by 2.4 m charges for the majority of the super flood basin,

and 1.5 m by 1.8 m for the rows closest to Berth 11. Due to time and spatial separation of each single charge by a distance of 2.4 m, the accumulation of acoustic energy is added sequentially, assuming the transmission loss follows cylindrical spreading within the matrix of charges. Using this approach for multiple confined charges, the modeled source SEL for 30, 120 lb charges at 1 m is estimated to be 227 dB re 1μPa<sup>2</sup>-s. Please see the Navy’s IHA application for more details regarding these calculations.

TABLE 7—BLASTING SOURCE LEVELS

Explosive charge	SPL <sub>pk</sub> , (dB re 1 μPa)	SEL (dB re 1 μPa <sup>2</sup> -s)
30 x 120 lb charge	257	227

These source levels for pile driving, drilling, and blasting are used to estimate the Level B harassment zones and calculate the Level A harassment zones.

Level B Harassment Zones

Transmission loss (TL) is the decrease in acoustic intensity as an acoustic pressure wave propagates out from a source. TL parameters vary with frequency, temperature, sea conditions, current, source and receiver depth, water depth, water chemistry, and bottom composition and topography. The general formula for underwater TL is:

$$(1) TL = B * \log_{10}(R1/R2)$$

Where,

R1 = the distance of the modeled SPL from the driven pile, and  
R2 = the distance from the driven pile of the initial measurement.

The degree to which underwater sound propagates away from a sound source is dependent on a variety of factors, most notably the water

bathymetry and presence or absence of reflective or absorptive conditions including in-water structures and sediments. Spherical spreading occurs in a perfectly unobstructed (free-field) environment not limited by depth or water surface, resulting in a 6 dB reduction in sound level for each doubling of distance from the source (20\*log[range]). Cylindrical spreading occurs in an environment in which sound propagation is bounded by the water surface and sea bottom, resulting in a reduction of 3 dB in sound level for each doubling of distance from the source (10\*log[range]). A practical spreading value of 15 is often used under conditions, such as at the Shipyard dock, where water increases with depth as the receiver moves away from the shoreline, resulting in an expected propagation environment that would lie between spherical and cylindrical spreading loss conditions. The Level B harassment distances for construction activities are calculated using practical spreading (impact and vibratory pile driving, drilling) and spherical spreading with absorption (blasting), which includes an additional term in the equation that accounts for frequency-specific transmission loss to the environment due to absorption, using the source levels provided in Tables 6 and 7, respectively.

Ensonified areas (A) are calculated using the following equation.

$$(2) A = \pi R^2$$

Where,

R is the harassment distance.

However, the maximum distance from the source is capped due to landmass interception in the surrounding area. For this reason, the maximum area that could be ensonified by noise from pile driving and drilling is an estimated 0.418 km<sup>2</sup>. Therefore, all harassment zones that are larger than 0.418 km<sup>2</sup> are corrected to this maximum value. The

maximum ensonified area for blasting is smaller (0.335 km<sup>2</sup>) because, prior to the removal of bedrock, a portion of the west closure wall will be installed, providing an additional boundary between noise produced within the super flood basin and the surrounding environment.

Level A Harassment Zones

When the original NMFS Technical Guidance (2016) was published, in recognition of the fact that the ensonified area/volume could be more technically challenging to predict because of the duration component in the new thresholds, NMFS developed a User Spreadsheet that includes tools to help predict a simple isopleth that can be used in conjunction with marine mammal density or occurrence to help predict takes. NMFS notes that because of some of the assumptions included in the methods used for these tools, NMFS anticipates that isopleths produced are typically going to be overestimates of some degree, which may result in some degree of overestimate of Level A harassment take. However, these tools offer the best way to predict appropriate isopleths when more sophisticated 3D modeling methods are not available, and NMFS continues to develop ways to quantitatively refine these tools, and will qualitatively address the output where appropriate. For stationary sources such as in-water vibratory and impact pile driving, NMFS User Spreadsheet predicts the closest distance at which, if a marine mammal remained at that distance the entire duration of the activity, it would not

incur PTS. Inputs used in the User Spreadsheet (*i.e.*, pile driving duration or number of strikes per pile, and the number of piles installed or removed per day) used to calculate distances to the Level A harassment isopleths for pile driving and drilling are shown in Table 8.

For blasting, the calculated distances to Level A harassment thresholds are based on a single blast event per day. The Navy plans to conduct 150 blast events over 130 days, so on the majority of construction days (110) only one blast event will occur. NMFS recognizes that if two blasts do occur on a single day, the cumulative SEL for the 24-hour timeframe over which blasting occurs would be higher than that analyzed here. However, the distances to the Level A harassment thresholds in Table 9 do not reflect the attenuating influence of the double bubble curtain that will be in place across any openings between the super flood basin and the surrounding environment during blasting events. If multiple blast events occur within a 24-hour period, they will be separated by 4 to 5 hours. It is likely that if marine mammals are present in the vicinity of the construction area (outside of the shutdown zone) during the first blast event they will avoid the area for at least the remainder of day.

Blasting will occur at multiple locations within the super flood basin. The minimum and maximum distances from the blasting locations to the center of the entrance to the super flood basin are 37.5 and 160 m, respectively. Acoustic modeling is based on the location closest to the entrance to the

basin; the resulting distances to Level B harassment and Level A harassment isopleths are, therefore, a conservative estimate of the maximum extent of potential acoustic impact outside of the basin. The distance to the Level A harassment isopleth for blasting for harbor porpoises (1,007 m) is larger than that for phocids (110 m), but the density of harbor porpoises near the construction area is very low (see *Marine Mammal Occurrence* section). Harbor seals and gray seals are more common, but the distance to the Level A harassment isopleth for phocids is fully encompassed by the shutdown zone.

The Level A harassment zones are calculated using the same Equation (2). For all pile driving/drilling activities, ensonified areas are based on distances to the cumulative SEL Level A harassment thresholds using the NMFS acoustic guidance (NMFS 2018) because they were larger than the values calculated against the SPL<sub>peak</sub> criteria. Following the approach used for estimating Level B harassment zones, if the calculated value is larger than the maximum potential ensonified zone, Level A harassment zones are corrected to 0.418 km<sup>2</sup> for pile driving activity and 0.335 km<sup>2</sup> for blasting activity.

The calculated distances to Level A harassment and non-auditory injury (to the gastrointestinal tract) isopleths, estimated distances to Level B harassment isopleths, and associated ensonified areas for the marine mammal species likely to be affected by the construction activities are provided in Tables 8 and 9.

TABLE 8—DISTANCES AND AREAS OF HARASSMENT ZONES FOR PILE DRIVING AND DRILLING

Activity	Pile size, type, and rate	Number of strikes/pile or duration	Number of days	Level A harassment				Level B harassment	
				HF cetacean		Phocid		Dist. (m)	Area (km <sup>2</sup> )
				Dist. (m)	Area (km <sup>2</sup> )	Dist. (m)	Area (km <sup>2</sup> )		
<b>Impulsive</b>									
Construct west closure wall.	18-inch flat-webbed sheet pile (12 pile/day).	300 .....	13	516	0.258	232	0.068	341	0.126
Entrance structure closure walls.	28-inch Z-shaped sheet pile (12 pile/day).	300 .....	4	2,056	0.418	923	0.395	2,512	0.418
<b>Non-impulsive</b>									
Construct west closure wall.	18-inch flat-webbed sheet pile (12 pile/day).	5 min/pile 60 min/day ...	13	13.7	0.000556	5.6	0.00098	7,356	0.418
Install west closure wall template.	30-inch steel pipe pile (3 pile/day).	5 min/pile 15 min/day ...	5	10.1	0.000319	4.1	0.000053	13,594	0.418
Remove west closure wall template.	30-inch steel pipe pile (3 pile/day).	5 min/pile 15 min/day ...	5	10.1	0.000319	4.1	0.000053	13,594	0.418
Remove temporary dolphins.	30-inch steel pipe pile (8 pile/day).	5 min/pile 40 min/day ...	2	19.4	0.01068	8.0	0.001996	13,594	0.418
Entrance structure closure walls.	28-inch Z-shaped sheet pile (12 pile/day).	5 min/pile 60 min/day ...	4	25.4	0.00174675	10.4	0.000338	13,594	0.418

TABLE 8—DISTANCES AND AREAS OF HARASSMENT ZONES FOR PILE DRIVING AND DRILLING—Continued

Activity	Pile size, type, and rate	Number of strikes/pile or duration	Number of days	Level A harassment				Level B harassment	
				HF cetacean		Phocid		Dist. (m)	Area (km <sup>2</sup> )
				Dist. (m)	Area (km <sup>2</sup> )	Dist. (m)	Area (km <sup>2</sup> )		
Bedrock drilling for blast charges.	4.5-inch (1,580 holes) ..	12 hr/day .....	130	7	0.000153	4.3	0.000058	12,023	0.418

\*0.418 km<sup>2</sup> is the maximum ensonified area in the project area for pile driving and drilling due to landmass interception of sound propagation.

TABLE 9—DISTANCES AND AREAS OF HARASSMENT ZONES FOR BLASTING

Blasting events and charge	Blasting days	Level A (PTS onset) harassment <sup>1</sup>		Level B (behavioral) harassment		Non-auditory injury (gastrointestinal tract)	
		Harbor porpoise distance to 155 dB SEL <sub>cum</sub> threshold/area of ZOI	Phocids distance to 185 dB SEL <sub>cum</sub> threshold/area of ZOI	Harbor porpoise distance to 135 dB SEL <sub>cum</sub> threshold/area of ZOI	Phocids distance to 165 dB SEL <sub>cum</sub> threshold/area of ZOI	Phocid/harbor porpoise distance to 237 dB peak pressure threshold/area of ZOI (onset of effect)	Phocid/harbor porpoise distance to 243 dB peak pressure threshold/area of ZOI (injury)
5–30 blasts per event, 120-lb charge per blast event, 150 blast events.	130 (1–2 events/day).	1,007 m/0.335 km <sup>2</sup> .	110 m/0.01978 km <sup>2</sup> .	2,131 m/0.335 km <sup>2</sup> .	577 m/0.27636 km <sup>2</sup> .	9 m/0.000254 km <sup>2</sup>	5 m/0.00008 km <sup>2</sup>

\*0.335 km<sup>2</sup> is the maximum ensonified area for blasting in the project area due to landmass interception of sound propagation.

<sup>1</sup>Distance to 202 dB SPL<sub>peak</sub> threshold for harbor porpoises is 19 m, and to 218 dB SPL<sub>peak</sub> threshold for phocids is 3 m.

*Marine Mammal Occurrence*

Marine mammal density estimates for the harbor porpoise, harbor seal, and gray seal are based on marine mammal monitoring observations during 2017

and 2018 (CIANBRO 2018a, b). Density values were calculated from visual sightings of all marine mammals divided by the monitoring days (total of 154 days) and the total ensonified area

in which the sightings occurred in the 2017 and 2018 activities (0.8401 km<sup>2</sup>). Details used for calculations are provided in Table 10 and described below.

TABLE 10—MARINE MAMMAL SIGHTINGS AND RESULTING DENSITY IN THE VICINITY OF PORTSMOUTH NAVAL SHIPYARD

Species	2017 sighting (96 days)	2018 sighting (58 days)	Total sighting	Density (animal/day/km <sup>2</sup> )
Harbor porpoise .....	3	2	5	0.04
Harbor seal .....	199	122	321	2.48
Gray seal .....	24	2	26	0.20

Hooded and harp seals are much rarer than harbor and gray seals in the Piscataqua River, and no density information for these two species is available. To date, marine mammal monitoring for the Berth 11 Waterfront Improvements Construction project has not recorded a sighting of a hooded or harp seal in the project area (Cianbro 2018ab; NAVFAC Mid-Atlantic 2018, 2019b; Navy 2019; Stantec 2020); however, two harp seals were observed outside of the timeframe of dedicated marine mammal monitoring of Berth 11 pile-driving activities, one on May 12, 2020 and one on May 14, 2020 (Stantec 2020). The Navy requested authorization of take for these two species, given the potential for occurrence, and NMFS is acting on that request.

*Take Calculation and Estimation*

The approach by which the information provided above is brought together to produce a quantitative take estimate is described here.

For marine mammals with calculated density information (i.e., harbor porpoise, harbor seal, and gray seal), in general, estimated Level B harassment and Level A harassment take numbers are calculated using the following equation:

$$\text{Estimated take} = \text{animal density} \times \text{ensonified area} \times \text{operating days} \quad (3)$$

However, in consideration of the prevalence of seals in the project area and in accordance with the approach utilized in IHAs previously issued to the Navy for expansion and modification of DD1, NMFS has determined that it is appropriate to increase the number of harbor seal and gray seal Level B behavioral harassment takes. Harbor

seal Level B behavioral harassment takes have been adjusted upwards by multiplying the average number of harbor seals sighted per day from May through December 2020 (721 sightings divided by 150 days of monitoring, or 5 harbor seals/day) by the number of actual construction days (159), resulting in 795 Level B behavioral harassment takes. Gray seal Level B harassment takes have been increased utilizing the same approach (47 sightings divided by 150 days of monitoring, or 0.31 gray seals/day), resulting in 50 Level B behavioral harassment takes.

NMFS authorized one Level B harassment take per month for both hooded seals and harp seals for the Berth 11 Waterfront Improvements construction project in both 2018 and 2019. Following the same approach, the Navy has requested, and NMFS has authorized, one Level B harassment take each of hooded seals and harp seals per

month of construction from January through May, when these species may occur in the vicinity of DD1 (total of 5

Level B harassment takes for each species).

The total number of takes authorized is presented in Table 11. Non-auditory

take estimates were zero for all species and are, therefore, not included in Table 11.

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**Table 11. Takes Authorized.**

Marine Mammals	Underwater Vibratory Pile-driving and Drilling Criteria (e.g., non-impulsive/continuous sounds)			Underwater Impact Pile-driving and Blasting Criteria (e.g., impulsive sounds)					Total estimated takes	Authorized takes	Percent population (%)
	Level A (PTS onset) Threshold 173 dB Harbor Porpoise	Level A (PTS onset) Threshold 201 dB Seals	Level B (Behavioral) Harassment Threshold 120 dB <sup>2</sup> RMS	Level A (PTS onset) Threshold 155 dB <sup>1</sup> SEL Harbor Porpoise	Level A (PTS onset) 185 dB SEL Seals	Level B (Behavioral) Harassment Threshold 160 dB <sup>2</sup> RMS	Level B (Behavioral) Harassment Threshold 135 dB <sup>1</sup> SELcum Harbor Porpoise	Level B (Behavioral) Harassment Threshold 165 dB <sup>1</sup> SELcum Seals			
Harbor porpoise	0	NA	2 <sup>D</sup>	2 <sup>B</sup>	NA	0	0	NA	4	4	0.00
Harbor seal	NA	0	29 <sup>V</sup> /135 <sup>D</sup>	NA	6 <sup>V</sup> /6 <sup>B</sup>	2	NA	83 <sup>B</sup>	261	807	3.01
Gray seal	NA	0	1 <sup>V</sup> /11 <sup>D</sup>	NA	1 <sup>B</sup>	0	NA	7 <sup>B</sup>	20	51	0.00
Hooded seal	NA	0	5	NA	0	0	NA	0	5	5	0.00
Harp seal	NA	0	5	NA	0	0	NA	0	5	5	0.00

<sup>1</sup> dB re 1 μPa<sup>2</sup>-s.

<sup>2</sup> dB re 1μPa RMS.

<sup>D</sup> Drilling

<sup>B</sup> Blasting

<sup>V</sup> Vibratory pile-driving

<sup>I</sup> Impact pile-driving

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### Mitigation Requirements

In order to issue an IHA under Section 101(a)(5)(D) of the MMPA, NMFS must set forth the permissible methods of taking pursuant to such activity, and other means of effecting the least practicable impact on such species or stock and its habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance, and on the availability of such species or stock for taking for certain subsistence uses. NMFS regulations require applicants for incidental take authorizations to include information about the availability and feasibility (economic and technological) of equipment, methods, and manner of conducting such activity or other means of effecting the least practicable adverse impact upon the affected species or stocks and their habitat (50 CFR 216.104(a)(11)).

In evaluating how mitigation may or may not be appropriate to ensure the least practicable adverse impact on species or stocks and their habitat, as well as subsistence uses where applicable, NMFS carefully considers two primary factors:

(1) The manner in which, and the degree to which, the successful implementation of the measure(s) is expected to reduce impacts to marine mammals, marine mammal species or stocks, and their habitat. This considers the nature of the potential adverse impact being mitigated (likelihood, scope, range). It further considers the likelihood that the measure will be effective if implemented (probability of accomplishing the mitigating result if implemented as planned), the likelihood of effective implementation (probability implemented as planned); and

(2) The practicability of the measures for applicant implementation, which may consider such things as cost, impact on operations, and, in the case of a military readiness activity, personnel safety, practicality of implementation, and impact on the effectiveness of the military readiness activity.

In addition to the measures described later in this section, the Navy will employ the following standard mitigation measures:

- The Navy must employ PSOs, establish monitoring locations, and

monitor the project area to the maximum extent possible based on the required number of PSOs, required monitoring locations, and environmental conditions;

- Monitoring must take place from 30 minutes prior to initiation of construction activities through 30 minutes post-completion of pile-driving and drilling, and 60 minutes post-completion of blasting events;

- The Navy must conduct a briefing between construction supervisors and crews and the marine mammal monitoring team prior to the start of construction, and when new personnel join the work, to explain responsibilities, communication procedures, marine mammal monitoring protocol, and operational procedures;

- For in-water and over-water heavy machinery work, if a marine mammal comes within 10 m, operations shall cease and vessels shall reduce speed to the minimum level required to maintain steerage and safe working conditions;

- With the exception of pre-dawn drilling, work must only occur during daylight hours, when visual monitoring of marine mammals can be conducted;

- For those marine mammals for which take has not been requested, pile driving and removal, drilling, and blasting will shut down immediately when the animals are sighted approaching the Level B harassment zone;

- If take reaches the authorized limit for an authorized species, activity for which take is authorized will be stopped as these species approach the Level B harassment zone to avoid additional take;

- Blasting will not begin until at least one sheet pile face of the west closure wall has been installed;

- Blasting must only occur in good visibility conditions between 30 minutes after sunrise and one hour before sunset;

- Stemming procedures must be used for blasting events; and

- A double bubble curtain will be installed across any openings at the entrance of DD1 to mitigate underwater noise impacts outside of the super flood basin during pre-dawn drilling of blast-charge holes and blasting events.

The following measures will apply to the Navy's mitigation requirements:

**Monitoring Harassment Zones—** Before the commencement of in-water construction activities (*i.e.*, impact pile

driving, vibratory pile driving and pile removal, drilling, and blasting), Level B harassment and Level A harassment zones must be established for purposes of monitoring. Monitoring zones enable observers to be aware of and communicate the presence of marine mammals in the project area outside of the shutdown zone (see below) and thus prepare for a potential cease of activity should the animal enter the shutdown zone. All Level B harassment monitoring zones for the construction activities are equivalent to the maximum ensonified zone, adjusted for landmass interception, or 0.418 km<sup>2</sup>. Similarly, harassment monitoring zones must be established for the PTS isopleths associated with each functional hearing group.

**Shutdown Zones—**The Navy will implement shutdown zones for all pile driving and removal, drilling, and blasting activities. The purpose of a shutdown is to prevent some undesirable outcome, such as auditory injury or severe behavioral disturbance of sensitive species, by halting the activity. If a marine mammal is observed entering or within the respective shutdown zone (Table 12) after a construction activity has begun, the PSO will request a temporary cessation of the construction activity. On days when multiple activities are occurring concurrently, the largest shutdown zone between/among the activities will be implemented. The shutdown zone for blasting will be the entire region of influence (ROI), equivalent to the maximum ensonified zone adjusted for landmass interception (0.335 km<sup>2</sup>). If shutdown zones are obscured by fog or poor lighting conditions, pile-driving and blasting will not be initiated until the entire shutdown zones are visible.

Although drilling activities may occur during pre-dawn hours in order to maintain the project schedule, the shutdown distance for drilling is small (10 m) and will likely be entirely visible for monitoring despite visibility limitations during this timeframe. As mentioned previously, drilling will not occur between sunset and pre-dawn hours.

Shutdown zones typically vary based on the activity type and marine mammal hearing group. A summary of the shutdown zones is provided in Table 12.

TABLE 12—SHUTDOWN ZONES DISTANCES FOR CONSTRUCTION ACTIVITIES AND MARINE MAMMAL HEARING GROUPS

Pile type, size & driving method	Shutdown distance (m)	
	HF cetacean	Phocid
Vibratory drive 30-inch steel pipe piles .....	70 .....	30
Vibratory extraction 30-inch steel pipe piles .....	70 .....	30.
Impact drive 28-inch steel sheet piles .....	110 .....	50.
Vibratory drive 28-inch steel sheet piles .....	25 .....	10.
Impact drive 18-inch sheet piles .....	110 .....	50.
Vibratory drive 18-inch sheet piles .....	15 .....	10.
Drilling 4.5-inch blast charge holes .....	10 .....	10.
Blasting 120 lb charge .....	Entire ROI <sup>1</sup>	Entire ROI.

<sup>1</sup> Region of influence (ROI) for blasting is the maximum ensouffled area (0.335 km<sup>2</sup>).

**Pre-start Clearance Monitoring**—Prior to the start of daily in-water construction activity, or whenever a break in pile driving/removal or drilling of 30 minutes or longer occurs, PSOs will observe the shutdown zones for a period of 30 minutes. The shutdown zone will be considered cleared when a marine mammal has not been observed within the zone for that 30-minute period. If a marine mammal is observed within the shutdown zone, no construction activity, including soft-start (see below), can proceed until the animal has voluntarily left the zone or has not been observed for 15 minutes. When a marine mammal for which Level B harassment take is authorized is present in the Level B harassment zone, activities may begin. If the entire Level B harassment zone is not visible at the start of construction, pile driving activities can begin. If work ceases for more than 30 minutes, the pre-activity monitoring of the shutdown zones will commence.

**Soft Start**—The use of a soft start procedure is believed to provide additional protection to marine mammals by warning marine mammals or providing them with a chance to leave the area prior to the hammer operating at full capacity, and typically involves a requirement to initiate sound from the hammer at reduced energy followed by a waiting period. The Navy will provide an initial set of strikes from the impact hammer at reduced energy, followed by a 30 second waiting period, and then two subsequent sets. NMFS notes that it is difficult to specify the reduction in energy for any given hammer because of variation across drivers and, for impact hammers, the actual number of strikes at reduced energy will vary because operating the hammer at less than full power results in “bouncing” of the hammer as it strikes the pile, resulting in multiple “strikes”. Soft start will be implemented at the start of each day’s impact pile driving and at any time following

cessation of impact pile driving for a period of 30 minutes or longer.

Based on our evaluation of the required measures, NMFS has determined that the prescribed mitigation measures provide the means 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.

**Monitoring and Reporting Requirements**

In order to issue an IHA for an activity, Section 101(a)(5)(D) of the MMPA states that NMFS must set forth requirements pertaining to the monitoring and reporting of such taking. The MMPA implementing regulations at 50 CFR 216.104 (a)(13) indicate that requests for authorizations must include the suggested means of accomplishing the necessary monitoring and reporting that will result in increased knowledge of the species and of the level of taking or impacts on populations of marine mammals that are expected to be present in the action area. Effective reporting is critical both to compliance as well as ensuring that the most value is obtained from the required monitoring.

Monitoring and reporting requirements prescribed by NMFS should contribute to improved understanding of one or more of the following:

- Occurrence of marine mammal species or stocks in the area in which take is anticipated (e.g., presence, abundance, distribution, density);
- Nature, scope, or context of likely marine mammal exposure to potential stressors/impacts (individual or cumulative, acute or chronic), through better understanding of: (1) Action or environment (e.g., source characterization, propagation, ambient noise); (2) affected species (e.g., life history, dive patterns); (3) co-occurrence of marine mammal species with the action; or (4) biological or behavioral

context of exposure (e.g., age, calving or feeding areas);

- Individual marine mammal responses (behavioral or physiological) to acoustic stressors (acute, chronic, or cumulative), other stressors, or cumulative impacts from multiple stressors;
- How anticipated responses to stressors impact either: (1) Long-term fitness and survival of individual marine mammals; or (2) populations, species, or stocks;
- Effects on marine mammal habitat (e.g., marine mammal prey species, acoustic habitat, or other important physical components of marine mammal habitat); and
- Mitigation and monitoring effectiveness.

**Monitoring Requirements**

The Navy shall employ trained PSOs to conduct marine mammal monitoring for its PNSY modification and expansion project. The purposes of marine mammal monitoring are to implement mitigation measures and learn more about impacts to marine mammals from the Navy’s construction activities.

**Protected Species Observer Qualifications**

NMFS-approved PSOs shall meet the following requirements:

1. Independent observers (i.e., not construction personnel) are required;
2. At least one observer must have prior experience working as an observer;
3. Other observers may substitute education (undergraduate degree in biological science or related field) or training for experience;
4. Where a team of three or more observers are required, one observer should be designated as lead observer or monitoring coordinator. The lead observer must have prior experience working as an observer; and
5. NMFS will require submission and approval of observer curricula vitae (CVs).



### Marine Mammal Monitoring Protocols

The Navy will monitor all Level B harassment zones and Level A harassment zones before, during, and after construction activities. The Marine Mammal Monitoring Plan must include the following procedures:

- At least two (2) PSOs shall be posted to monitor marine mammals during in-water pile driving and removal, drilling, and blasting. Additional PSOs will be required in conditions of low visibility (*i.e.*, rain or light fog), for activities producing the largest ensonified zones, and/or if marine mammal occurrence is higher than expected in the project area;

- PSOs must be stationed at the best possible vantage point(s) in order to properly see the entire shutdown zone(s) and zones associated with behavioral impact thresholds, which may include the following locations: Berth 2, Berth 12, Isle of Shoals Steamship Company, Prescott Park, Four Tree Island, Peirce Island, and/or a boat or barge within the project limits;

- PSOs must record all observations of marine mammals, regardless of distance from the construction activity;

- During all observation periods, PSOs will use high-magnification (25X), as well as standard handheld (7X) binoculars, and the naked eye to search continuously for marine mammals;

- Monitoring distances will be measured with range finders. Distances to animals will be based on the best estimate of the PSO, relative to known distances to objects in the vicinity of the PSO;

- Pile driving and removal, drilling, and blasting will only take place when the shutdown zones are visible and can be adequately monitored. If conditions (*e.g.*, fog) prevent the visual detection of marine mammals, activities with the potential to result in Level A harassment shall not be initiated. If such conditions arise after the activity has begun, blasting and impact pile driving or removal will be halted but drilling and vibratory pile driving or removal will be allowed to continue;

#### Information Collection:

PSOs shall collect the following information during marine mammal monitoring:

- PSO locations during monitoring;
- Date and time that monitored activity begins and ends for each day conducted (monitoring period);

- Construction activities occurring during each daily observation period, including how many and what type of piles driven, number of blast holes drilled, and number or blast events;

- Environmental conditions during monitoring periods (at beginning and

end of PSO shift and whenever conditions change significantly); including Beaufort sea state and any other relevant weather conditions, including cloud cover, fog, sun glare, and estimated observable distance;

- For each marine mammal sighting:
  - Name of PSO who sighted the animal(s) and PSO location and activity at time of sighting;

- Time of sighting;
- Species, numbers, and, if possible, sex and age class of marine mammals;

- Description of any observable marine mammal behavior patterns, including bearing and direction of travel and distance from construction activity;

- Location, distance, and bearing from pile driving, drilling, and blasting activities to marine mammals and distance from the marine mammals to the observation point;

- Animal's closest point of approach and estimated amount of time that the animals remained in the Level B harassment and Level A harassment zones; and

- Detailed information about implementation of any mitigation (*e.g.*, shutdowns or delays), a description of specific actions that ensued, and resulting changes in behavior of the animal(s), if any.

- Percentage of time that activities (*i.e.*, drilling) occur at night.

### Hydroacoustic Monitoring

The Navy must conduct hydroacoustic monitoring of in-water construction activities, including the installation of (10) 28-inch Z-shaped sheet piles and (10) 18-inch flat-webbed sheet piles for both impact and vibratory pile driving, (4) 30-inch steel piles for vibratory pile driving, (10) 120 lbs blasting events, and (10) 4.5-inch blast-charge hole drilling events. Near-field monitoring will occur at 10 m from the pile driving hammers and drilling location. During blasting, near-field data will be collected using a pressure transducer to estimate sound levels based on received impulse. The far-field hydrophone will be placed as far from the acoustic source as is practicable, although the distance will be limited by DD1's proximity to a navigable channel outside of the entrance to the super flood basin. Monitoring will only be conducted when concurrent activities are not occurring, limiting interference in the recordings from other sources of noise in the environment.

### Reporting Requirements

The Navy is required to submit a draft monitoring report (including all PSO data sheets and/or raw sighting data) within 90 days after completion of the

construction work or the expiration of the IHA, whichever comes earlier. This report must detail the monitoring protocol, summarize the data recorded during monitoring, and estimate the number of marine mammals that may have been harassed. The draft hydroacoustic monitoring report must be submitted within the same timeframe and must contain the informational elements described in the hydroacoustic monitoring plan for all acoustically monitored events, including: A description of the hydrophones used, hydrophone locations (both near- and far-field) and water depths, recording device(s), distance from the acoustic source, and sediment type at the recording location; type and size of pile being driven, method of pile-driving during recording (hammer model and energy), and total driving/removal or drilling duration. For impact pile driving, the Navy must also report: Number of strikes and strike rate, depth of substrate penetrated, pulse duration, and mean, median, and maximum sound levels (db re 1  $\mu$  Pa) (root mean square sound pressure level ( $SPL_{rms}$ ); cumulative sound exposure level ( $SEL_{cum}$ ), peak sound pressure level ( $SPL_{peak}$ ), and single-strike sound exposure level ( $SEL_{s-s}$ )). For vibratory pile driving or removal and drilling, the Navy must also report: Median, minimum and maximum sound levels (db re 1  $\mu$  Pa) ( $SPL_{rms}$ ,  $SEL_{cum}$ ), and the timeframe over which the sound is averaged. For blast events, the Navy must also report: Number of blast events per day, time between blast events if two are conducted within a 24-hour period, total number of charges/delays, maximum net explosive weight (NEW) of a single charge and the total NEW of the event, timeframe between delays and total timeframe of event, impulse in Pa-sec,  $SPL_{peak}$  for each event and  $SEL_{cum}$  values for the entire 24 hours over which blasting occurs. For all activities, reported  $SPL_{rms}$  values must be based on a time window that consists of 90 percent of the acoustic energy. Power spectral density plots and one-third octave band spectra must be provided for all acoustically monitored construction activities. If, for any reason, the total number of events included in the hydroacoustic monitoring plan are not monitored within the overall construction timeframe, the Navy must report the actual number of events monitored. NMFS will have an opportunity to provide comments on the report and, if NMFS has comments, the Navy will address the comments and submit a final report to NMFS within 30 days.

The Navy is required to notify NMFS' Office of Protected Resources (OPR) and NMFS' Greater Atlantic Regional Stranding Coordinator or local stranding network at least 24 hours prior to commencing blasting events as well as within 24 hours after blasting events cease. If blasting events occur on consecutive days, the Navy must communicate how long the blasting is scheduled to last as well as when it is completed. In addition, in the event that personnel involved in the construction activities discover an injured or dead marine mammal, the Navy must immediately report the incident to NMFS OPR and the Stranding Coordinator or local stranding network and follow any instructions provided by the Stranding Coordinator or stranding network. If the death or injury was clearly caused by the specific activity, the Navy must immediately cease the specified activities until NMFS OPR is able to review the circumstances of the incident and determine what, if any, additional measures are appropriate to ensure compliance with the terms of the IHA. The Navy must not resume their activities until notified by NMFS OPR. The Navy shall provide NMFS OPR and the Stranding Coordinator or local stranding network with the species or description of the animal(s), the condition of the animal(s) (including carcass condition, if the animal is dead), location, time of first discovery, observed behaviors (if alive), and photo or video (if available).

In the event that the Navy finds an injured or dead marine mammal that is not in the construction area, the Navy would report the same information as listed above to the Stranding Coordinator or local stranding network and NMFS OPR as soon as is operationally feasible.

#### **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. NMFS also assesses 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 environmental baseline (*e.g.*, as reflected in the regulatory status of the species, population size and growth rate where known, ongoing sources of human-caused mortality, or ambient noise levels).

Pile driving and removal, drilling, and blasting activities associated with the project, as described previously, have the potential to disturb or temporarily displace marine mammals. The specified activities may result in take, in the form of Level A harassment (potential injury; from impact pile driving or blasting) or Level B harassment (potential behavioral disturbance or TTS) from underwater sounds generated from pile driving (impact and vibratory), drilling and blasting. Potential takes could occur if individual marine mammals are present in the ensonified zone when pile driving, drilling, or blasting activities are occurring.

To avoid repetition, this introductory discussion of NMFS' analysis applies to all of the species listed in Table 2, given that the anticipated effects of the Navy's PNSY modification and expansion construction project activities on marine mammals are expected to be relatively similar in nature. There is no information about the nature or severity of the impacts, or the size, status, or structure of any species or stock that would lead to a different analysis by species for this activity, or else species-specific factors would be identified and analyzed.

Although some individual harbor porpoises and harbor and gray seals are estimated to experience Level A harassment in the form of PTS if they remain within the impact pile driving Level A harassment zone for an entire day, or are present within the Level A harassment zone during a blasting event, the degree of injury is expected to be mild and is not likely to affect the reproduction or survival of the individual animals. It is expected that, if hearing impairments occurs as a result of impact pile driving or blasting, the affected animal would lose a few dB in

its hearing sensitivity, which in most cases is not likely to affect its survival and recruitment. Hearing impairment that might occur for these individual animals would be limited to the dominant frequency of the noise sources, (*i.e.*, in the low-frequency region below 2 kHz). Nevertheless, as for all marine mammal species, it is anticipated that, in general, these pinnipeds will avoid areas where sound levels could cause hearing impairment. Therefore, it is not likely that an animal would stay in an area with intense noise that could cause severe levels of hearing damage.

Under the majority of the circumstances, anticipated takes are expected to be limited to short-term Level B behavioral harassment or TTS. Marine mammals present in the vicinity of the action area and taken by Level B harassment would most likely show overt brief disturbance (startle reaction) from blasting events and avoidance of the area impacted by elevated noise levels during pile driving (and removal) and drilling. Given the limited estimated number of predicted incidents of Level B harassment and Level A harassment and the limited, short-term nature of the responses by the individuals, the impacts of the estimated take cannot be reasonably expected to, and are not reasonably likely to, rise to the level that they would adversely affect the species considered here at the population level, through effects on annual rates of recruitment or survival. There are no known important habitats, such as rookeries or haulouts, in the vicinity of the Navy's PNSY DD1 modification and expansion construction project. The project also is not expected to have significant adverse effects on affected marine mammals' habitat, including prey, as analyzed in detail in the Potential Effects of Specified Activities on Marine Mammals and their Habitat section in the **Federal Register** notice for the proposed IHA (86 FR 18244; April 8, 2021).

In summary and as described above, the following factors primarily support our determination that the impacts resulting from this activity are not expected to adversely affect the species or stock through effects on annual rates of recruitment or survival:

- No mortality is anticipated or authorized;
- Some individual marine mammals might experience a mild level of PTS, but the degree of PTS is not expected to affect their survival;
- Most adverse effects to marine mammals are likely to be temporary behavioral harassment or TTS; and

- No biologically important area is present in or near the construction area.

Based on the analysis contained herein of the likely effects of the specified activity on marine mammals and their habitat, and taking into consideration the implementation of the monitoring and mitigation measures, NMFS finds that the total marine mammal take from the activity will have a negligible impact on all affected marine mammal species or stocks.

#### Small Numbers

As noted above, only small numbers of incidental take may be authorized under section 101(a)(5)(A) and (D) of the MMPA for specified activities other than military readiness activities. The MMPA does not define small numbers and so, in practice, 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 less 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.

NMFS authorizes incidental take of 5 marine mammal stocks. The total amount of take authorized is three percent or less for all five of these stocks (Table 11).

Based on the analysis contained herein of the activity (including the prescribed mitigation and monitoring measures) and the anticipated take of marine mammals, NMFS finds that small numbers of marine mammals will be taken relative to the population size of the affected species or stocks.

#### Unmitigable Adverse Impact Analysis and Determination

There are no relevant subsistence uses of the affected marine mammal stocks or species implicated by this action. Therefore, NMFS has determined that the total taking of affected species or stocks would not have an unmitigable adverse impact on the availability of such species or stocks for taking for subsistence purposes.

#### Endangered Species Act (ESA)

No incidental take of ESA-listed species is authorized or expected to result from this activity. Therefore, NMFS has determined that formal consultation under section 7 of the ESA is not required for this action.

#### 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.

This action is consistent with categories of activities identified in Categorical Exclusion B4 (IHA with no anticipated serious injury or mortality) of the Companion Manual for NOAA Administrative Order 216-6A, which do not individually or cumulatively have the potential for significant impacts on the quality of the human environment and for which NMFS has not identified any extraordinary circumstances that would preclude this categorical exclusion. Accordingly, NMFS has determined that the issuance of the IHA qualifies to be categorically excluded from further NEPA review.

#### Authorization

As a result of these determinations, NMFS has issued an IHA to the Navy for the taking of marine mammals incidental to modification and expansion of the Portsmouth Naval Shipyard Dry Dock 1 in Kittery, Maine, effective for one year from the date of issuance, provided the previously mentioned mitigation, monitoring, and reporting requirements are incorporated. A copy of the final IHA can be found at <https://www.fisheries.noaa.gov/permit/incidental-take-authorizations-under-marine-mammal-protection-act>.

Dated: June 3, 2021.

**Catherine Marzin,**

*Acting Director, Office of Protected Resources,  
National Marine Fisheries Service.*

[FR Doc. 2021-11983 Filed 6-7-21; 8:45 am]

**BILLING CODE 3510-22-P**

#### DEPARTMENT OF COMMERCE

#### National Oceanic and Atmospheric Administration

[RTID 0648-XB131]

#### Takes of Marine Mammals Incidental to Specified Activities; Taking Marine Mammals Incidental to Site Characterization Surveys Off the Coast of Massachusetts; Correction

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

**ACTION:** Notice; modified proposal of an incidental harassment authorization; request for comments on modified

proposed authorization and possible renewal; correction.

**SUMMARY:** This document contains corrections to the **DATES** section of the notice of modified proposed incidental harassment authorization (IHA) for take of marine mammals incidental to marine site characterization surveys in coastal waters of Massachusetts published in the **Federal Register** on May 20, 2021. This action is necessary to notify the public of the end date of the public comment period, which was inadvertently omitted from the notice. This document corrects that omission; all other information is unchanged.

**ADDRESSES:** Comments should be addressed to Jolie Harrison, Chief, Permits and Conservation Division, Office of Protected Resources, National Marine Fisheries Service. Written comments should be submitted via email to [ITP.Pauline@noaa.gov](mailto:ITP.Pauline@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, 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](http://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:** Robert Pauline, Office of Protected Resources, NMFS, (301) 427-8401.

#### SUPPLEMENTARY INFORMATION:

#### Background

NMFS published a notice of a modified proposed IHA in the **Federal Register** on May 20, 2021 (86 FR 27393), based on a request from Mayflower Wind Energy LLC (Mayflower) for authorization to take marine mammals incidental to site characterization surveys off the coast of Massachusetts in the area of the Commercial Lease of Submerged Lands for Renewable Energy Development on the Outer Continental Shelf (OCS-A 0521) and along potential submarine cable routes to landfall locations at Falmouth, Massachusetts and near Narragansett Bay. The information in the notice of modified proposed IHA is not repeated here. As published, the notice of modified proposed IHA (86 FR 27393; May 20,

2021) omitted the **DATES** section including the closing date of the comment period.

#### Correction

In the **Federal Register** of May 20, 2021, in FR Doc. 2021–10551, on page 27394, in the first column, correct the **DATES** section to read as follows:

**DATES:** Comments and information must be received no later than June 21, 2021.

The closing date for public comments regarding the notice of modified proposed IHA published on May 20, 2021 (86 FR 27393) in the **Federal Register** is June 21, 2021.

Dated: June 2, 2021.

**Catherine Marzin,**

*Acting Director, Office of Protected Resources, National Marine Fisheries Service.*

[FR Doc. 2021–11910 Filed 6–7–21; 8:45 am]

**BILLING CODE 3510–22–P**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

[RTID 0648–XB067]

#### Takes of Marine Mammals Incidental to Specified Activities; Taking Marine Mammals Incidental to Marine Site Characterization Surveys Offshore of Massachusetts, Rhode Island, Connecticut, and New York

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

**ACTION:** Notice; request for comments on proposed renewal incidental harassment authorization.

**SUMMARY:** NMFS received a request from Vineyard Wind, LLC (Vineyard Wind) for the Renewal of their currently active incidental harassment authorization (IHA) to take marine mammals incidental to marine site characterization survey activities off the coast of Massachusetts in the areas of the Commercial Lease of Submerged Lands for Renewable Energy Development on the Outer Continental Shelf (OCS–A 0501 and OCS–A 0522) and along potential submarine cable routes to landfall locations in Massachusetts, Rhode Island, Connecticut, and New York. These activities consist of activities that are covered by the current authorization but will not be completed prior to its expiration. Pursuant to the Marine Mammal Protection Act (MMPA), prior to issuing the currently active IHA,

NMFS requested comments on both the proposed IHA and the potential for renewing the initial authorization if certain requirements were satisfied. The Renewal requirements have been satisfied, and NMFS is now providing an additional 15-day comment period to allow for any additional comments on the proposed Renewal not previously provided during the initial 30-day comment period.

**DATES:** Comments and information must be received no later than June 23, 2021.

**ADDRESSES:** Comments should be addressed to Jolie Harrison, Chief, Permits and Conservation Division, Office of Protected Resources, National Marine Fisheries Service. Written comments should be submitted via email to [ITP.tyson.moore@noaa.gov](mailto:ITP.tyson.moore@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, 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 <https://www.fisheries.noaa.gov/permit/incidental-take-authorizations-under-marine-mammal-protection-act> without change. All personal identifying information (e.g., name, address) voluntarily submitted by the commenter may be publicly accessible. Do not submit confidential business information or otherwise sensitive or protected information.

**FOR FURTHER INFORMATION CONTACT:** Remy Tyson Moore, Office of Protected Resources, NMFS, (301) 427–8401. Electronic copies of the original application, Renewal request, and supporting documents (including NMFS **Federal Register** notices of the original proposed and final authorizations, and the previous IHA), as well as a list of the references cited in this document, may be obtained online at: <https://www.fisheries.noaa.gov/permit/incidental-take-authorizations-under-marine-mammal-protection-act>. In case of problems accessing these documents, please call the contact listed above.

#### SUPPLEMENTARY INFORMATION:

##### Background

The Marine Mammal Protection Act (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 proposed or, if the taking is limited to harassment, a notice of a proposed incidental take authorization is provided to the public for review.

Authorization for incidental takings shall be granted if NMFS finds that the taking will have a negligible impact on the species or stock(s) and will not have an unmitigable adverse impact on the availability of the species or stock(s) for taking for subsistence uses (where relevant). Further, NMFS must prescribe the permissible methods of taking and other “means of effecting the least practicable adverse impact” on the affected species or stocks and their habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance, and on the availability of such species or stocks for taking for certain subsistence uses (referred to here as “mitigation measures”). Monitoring and reporting of such takings are also required. The meaning of key terms such as “take,” “harassment,” and “negligible impact” can be found in section 3 of the MMPA (16 U.S.C. 1362) and the agency’s regulations at 50 CFR 216.103.

NMFS’ regulations implementing the MMPA at 50 CFR 216.107(e) indicate that IHAs may be renewed for additional periods of time not to exceed one year for each reauthorization. In the notice of proposed IHA for the initial authorization, NMFS described the circumstances under which we would consider issuing a Renewal for this activity and requested public comment on a potential Renewal under those circumstances. Specifically, 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, or nearly identical, activities as described in the Detailed Description of Specified Activities section of the initial IHA issuance notice is planned or (2) the activities as described in the Detailed Description of Specified Activities section of the initial IHA issuance notice would not be completed by the time the initial IHA expires and a Renewal would allow for completion of the activities beyond that described in the **DATES** section of the notice of issuance of the initial IHA, provided all of the following conditions are met:

(1) 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).

(2) The request for Renewal must include the following:

- 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).

- 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.

(3) 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.

An additional public comment period of 15 days (for a total of 45 days), with direct notice by email, phone, or postal service to commenters on the initial IHA, is provided to allow for any additional comments on the proposed Renewal. A description of the Renewal process may be found on our website at: [www.fisheries.noaa.gov/national/marine-mammal-protection/incidental-harassment-authorization-renewals](http://www.fisheries.noaa.gov/national/marine-mammal-protection/incidental-harassment-authorization-renewals). Any comments received on the potential Renewal, along with relevant comments on the initial IHA, have been considered in the development of this proposed IHA Renewal, and a summary of agency responses to applicable comments is included in this notice. NMFS will consider any additional public comments prior to making any final decision on the issuance of the requested Renewal, and agency responses will be summarized in the final notice of our decision.

### 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 with respect to environmental consequences on the human environment.

This action is consistent with categories of activities identified in CE B4 of the Companion Manual for NOAA

Administrative Order 216-6A, which do not individually or cumulatively have the potential for significant impacts on the quality of the human environment and for which we have not identified any extraordinary circumstances that would preclude this categorical exclusion. Accordingly, NMFS has preliminarily determined that the issuance of the proposed IHA Renewal qualifies to be categorically excluded from further NEPA review.

We will review all comments submitted in response to this notice prior to concluding our NEPA process or making a final decision on the IHA Renewal request.

### History of Request

On May 06, 2020, NMFS issued an IHA to Vineyard Wind to take marine mammals incidental to marine site characterization survey activities off the coast of Massachusetts in the areas of the Commercial Lease of Submerged Lands for Renewable Energy Development on the Outer Continental Shelf (OCS-A 0501 and OCS-A 0522) and along potential submarine cable routes to landfall locations in Massachusetts, Rhode Island, Connecticut, and New York (85 FR 26940), effective from June 01, 2020 through May 31, 2021. This IHA was re-issued on July 14, 2020 with the only change being a change in effective dates from June 21, 2020 through June 20, 2021 (85 FR 42357). On March 25, 2021, NMFS received a request for a Renewal of the re-issued IHA. As described in the request for Renewal IHA, the activities for which incidental take is requested consist of activities that are covered by the initial authorization but will not be completed prior to its expiration. As required, the applicant also provided a preliminary monitoring report (available at <https://www.fisheries.noaa.gov/permit/incidental-take-authorizations-under-marine-mammal-protection-act>) which confirms that the applicant has implemented the required mitigation and monitoring, and which also shows that no impacts of a scale or nature not previously analyzed or authorized have occurred as a result of the activities conducted.

### Description of the Specified Activities and Anticipated Impacts

Vineyard Wind plans to conduct high-resolution geophysical (HRG) surveys in support of offshore wind development projects in the areas of Commercial Lease of Submerged Lands for Renewable Energy Development on the Outer Continental Shelf (#OCS-A 0501 and #OCS-A 0522) (Lease Areas) and along potential submarine cable routes

to landfall locations in Massachusetts, Rhode Island, Connecticut, and New York. The purpose of the marine site characterization surveys is to obtain a baseline assessment of seabed/sub-surface soil conditions in the Lease Area and cable route corridors to support the siting of potential future offshore wind projects. Underwater sound resulting from Vineyard Wind's planned site characterization surveys has the potential to result in incidental take of 14 marine mammal species in the form of Level B behavioral harassment. Vineyard Wind requested a Renewal of the initial IHA that was re-issued by NMFS in July 2020 on the basis that the activities as described in the Specified Activities section of the initial IHA 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 the initial IHA.

In their 2020 IHA application, Vineyard Wind estimated that it would take a year to complete the HRG surveys. This schedule was based on 24-hour operations and included potential down time due to inclement weather. With up to eight survey vessels operating concurrently, a maximum of 736 vessel days were anticipated. Each vessel would maintain a speed of approximately 3.5 knots (kn; 6.5 kilometers [km]/hour) while transiting survey lines and each vessel would cover approximately 100 km per day. However, during the 2020-2021 survey season, Vineyard Wind completed only 184 vessel days of the 736 vessel days estimated to complete the work and only surveyed approximately 25 percent of the planned survey routes. Vineyard Wind predicts that a maximum of 552 vessel days, with up to eight survey vessels operating concurrently, over 181 days will be required to survey the remaining routes, estimated to be approximately 55,200 km. The Renewal IHA would authorize harassment of marine mammals for this remaining survey distance using survey methods identical to those described in the initial IHA application; therefore, the anticipated effects on marine mammals and the affected stocks also remain the same. All active acoustic sources and mitigation and monitoring measures would remain as described in the **Federal Register** notices of the proposed IHA (85 FR 7952, February 12, 2020) and issued IHA (85 FR 26940, May 06, 2020). The amount of take requested for the Renewal IHA reflects the amount of remaining work in consideration of marine mammal monitoring data from the 2020 survey season resulting in

equal or less take than that authorized in the initial IHA.

*Detailed Description of the Activity*

A detailed description of the HRG activities for which take is proposed here may be found in the **Federal Register** notices of the proposed IHA (85 FR 7952, February 12, 2020), issued IHA (85 FR 26940, May 06, 2020), and reissued IHA (85 FR 42357, July 14, 2020) for the initial authorization. As described above, Vineyard Wind is not able to complete the survey activities analyzed in the initial IHA by the date the IHA is set to expire (June 20, 2021). As such, the surveys Vineyard Wind proposes to conduct under this Renewal would be a continuation of the surveys as described in the initial IHA. The location and nature of the activities, including the types of equipment planned for use, are identical to those described in the previous notices. Because part of the work has already been completed, the duration of the surveys conducted under the Renewal IHA will occur over less time than that described for the initial IHA (181 days versus 365 days); however, Vineyard Wind will continue to operate 24 hours per day to complete the work. Vineyard Wind proposes to continue its activities on June 21, 2021, after the initial IHA expires on June 20, 2021. The proposed Renewal would be effective for a period of one year from the date of issuance.

*Description of Marine Mammals*

A description of the marine mammals in the area of the activities for which authorization of take is proposed here, including information on abundance, status, distribution, and hearing, may be found in the notices of the proposed and final IHAs for the initial authorization (85 FR 7952, February 12, 2020; 85 FR 26940, May 06, 2020). NMFS has reviewed the monitoring data from the initial IHA, recent draft Stock Assessment Reports, information on relevant Unusual Mortality Events, and other scientific literature, and determined that neither this nor any other new information affects which species or stocks have the potential to

be affected or the pertinent information in the Description of the Marine Mammals in the Area of Specified Activities contained in the supporting documents for the initial IHA.

The draft 2020 Stock Assessment Report (SAR, available online at: <https://www.fisheries.noaa.gov/national/marine-mammal-protection/draft-marine-mammal-stock-assessment-reports>) states that estimated abundance has increased for the Western North Atlantic stock of common dolphins, from 172,825 (CV = 0.21) to 172,974 (CV = 0.21), and decreased for the following marine mammal stocks: The Gulf of Maine stock of humpback whales (from 1,396 (CV = 0) to 1,393 (CV = 0.15)), the Western North Atlantic stock of fin whales (from 7,418 (CV = 0.25) to 6,802 (CV = 0.24)), and the Canadian East coast stock of minke whales (from 24,202 (CV = 0.3) to 21,968 (CV=0.31)). Abundance estimates for the Western North Atlantic stock of North Atlantic right whales have also been updated, and state that right whale abundance has decreased from 428 to 368 (95% CI 356–378) individuals (Pace 2021).

Roberts *et al.* (2020) provided updated monthly densities of North Atlantic right whales in the area of proposed activities since the time of the initial IHA. These updated data for North Atlantic right whale densities incorporate additional sighting data and include increased spatial resolution. We reviewed the updated model documentation and recalculated the North Atlantic right whale density estimates following the same methods outlined in the proposed and final IHAs for the initial authorization (85 FR 7952, February 12, 2020; 85 FR 26940, May 06, 2020). The new model results state that the mean annual North Atlantic right whale densities have slightly increased in the activity area.

NMFS has preliminarily determined that neither the updated abundance and density information presented above nor any other new information affects which species or stocks have the potential to be affected or the pertinent information in the Description of the Marine Mammals in the Area of Specified

Activities contained in the supporting documents for the initial IHA.

*Potential Effects on Marine Mammals and Their Habitat*

A description of the potential effects of the specified activity on marine mammals and their habitat for the activities for which take is proposed here may be found in the notices of the proposed and final IHAs for the initial authorization (85 FR 7952, February 12, 2020; 85 FR 26940, May 06, 2020). NMFS has reviewed the monitoring data from the initial IHA, recent draft Stock Assessment Reports, Technical Reports (*e.g.*, Pace 2021), information on relevant Unusual Mortality Events, and other scientific literature and data (*e.g.*, Roberts *et al.* 2020) and determined that neither this nor any other new information affects our initial analysis of impacts on marine mammals and their habitat.

*Estimated Take*

A detailed description of the methods and inputs used to estimate take for the specified activity are found in the notices of the proposed and final IHAs for the initial authorization (85 FR 7952, February 12, 2020; 85 FR 26940, May 06, 2020). The acoustic source types, as well as source levels applicable to this authorization remain unchanged from the initial IHA. Similarly, the stocks taken, methods of take, and type of take (*i.e.*, Level B harassment only) remain unchanged from the initial IHA.

In the initial authorization for the HRG survey activities, the potential for take was estimated using the following parameters: (1) Maximum number of survey days that could occur over a 12-month period; (2) maximum distance each vessel could travel per 24-hour period in each of the identified survey areas; (3) maximum ensonified area (zone of influence (ZOI)); and (4) maximum marine mammal densities for any given season that a survey could occur. The calculated radial distances to the Level B harassment threshold (160 decibel (dB) root mean square (rms)) from a survey vessel are included in Table 1.

TABLE 1—MODELED RADIAL DISTANCES FROM HRG SURVEY EQUIPMENT TO ISOPLETHS CORRESPONDING TO LEVEL A HARASSMENT AND LEVEL B HARASSMENT THRESHOLDS

HRG Survey Equipment		Level B harassment horizontal impact distance (m)
Shallow subbottom profilers .....	EdgeTech Chirp 216 .....	4
Deep seismic profilers .....	Applied Acoustics AA251 Boomer .....	178
Deep seismic profilers .....	GeoMarine Geo Spark 2000 (400 tip) .....	195

The equation for estimating take for all species remains the same as the initial IHA:

Estimated Take =  $D \times ZOI \times \#$  of days

Where:

$D$  = species density (per km<sup>2</sup>) and  $ZOI$  = maximum daily ensonified area

In the notices of the proposed and final IHAs for the initial authorization (85 FR 7952, February 12, 2020; 85 FR 26940, May 06, 2020), a conservative  $ZOI$  was calculated by applying the maximum radial distance for any category and type of HRG survey equipment considered in its assessment to the mobile source  $ZOI$  calculation. This maximum calculated distance to the Level B harassment threshold for the GeoMarine Geo Spark 2000 of 195 m was also used to calculate the  $ZOI$  for the requested extension. Vineyard Wind estimates that proposed survey vessels will achieve a maximum daily track line distance of 100 km per day during proposed HRG surveys. This distance accounts for the vessel traveling at roughly 3.5 kn (6.5 km/hour) and accounts for non-active survey periods. Based on the maximum estimated distance to the Level B harassment threshold of 195 m (Table 1) and the maximum estimated daily track line distance of 100 km, Vineyard Wind estimated that an area of 39.12 km<sup>2</sup> would be ensonified to the Level B harassment threshold per day during Vineyard Wind's proposed HRG surveys. This is a conservative estimate as it assumes the HRG sources that result in the greatest isopleth distances to the Level B harassment threshold would be operated at all times during the all vessel days.

This methodology of calculating take in the initial IHA applies to the proposed Renewal IHA for all species, with the only difference being the fewer amount of vessel days (*i.e.*, 552 versus 736). The result is that the amount of take is reduced proportionally to the reduction in the number of days of work remaining. Vineyard Wind has requested a deviation from the proportionally reduced calculated take for Risso's dolphins as described below. Other than in the additional instances described below, NMFS agrees with Vineyard Wind's request for take and we propose to authorize the same amount of take as described in their request.

In their request for a Renewal IHA application, Vineyard Wind requested that the number of Level B harassment takes (per the equation above) for Risso's dolphins be equal to their average group size estimate (6 individuals), given a proportional

reduction in take based on the reduction in the number of days of work remaining would result in a take estimate that is smaller than the average group size estimate. As described in Vineyard Wind's preliminary monitoring report, they did not observe any Risso's dolphins during the survey work thus far completed. Therefore, we have carried over the same amount of take as proposed in the initial IHA, which is based on an average group size of 6 Risso's dolphins (Table 2).

In the notices of the proposed and final IHAs for the initial authorization (85 FR 7952, February 12, 2020; 85 FR 26940, May 06, 2020) takes by Level B harassment authorized for North Atlantic right whales were limited to 10 individuals, which was reduced from the calculated take of 31 whales. There were several reasons justifying this reduction. Vineyard Wind established and monitored a shutdown zone at least 2.5 times (500-meters (m)) greater than the predicted Level B harassment threshold distance (195 m). Take had also been conservatively calculated based on the largest source, which will not be operating at all times, and take is therefore likely over-estimated to some degree. Furthermore, the potential for incidental take during daylight hours is very low given that two Protected Species Observers (PSOs) are required for monitoring. Additionally, sightings of right whales had been uncommon during previous HRG surveys conducted in areas near the proposed surveys. For example, no North Atlantic right whales were sighted during Bay State Wind surveys in adjacent and overlapping survey areas over 376 vessel days between May 11, 2018 and March 14, 2019. Vineyard Wind also had no North Atlantic right whales sighted in their marine mammal monitoring report that included Lease Areas OCS-A 0501 and OCS-A 0522 from May 31, 2019 through January 7, 2020. Therefore, the aforementioned factors led NMFS to conclude that the unadjusted modeled exposure estimate was likely a significant overestimate of actual potential exposure. Accordingly, in the initial IHA NMFS made a reasonable adjustment to conservatively account for these expected mitigating effects on actual taking of right whales.

During the 2020–2021 surveys, Vineyard Wind reported four sightings of seven North Atlantic right whales in their preliminary monitoring report. While all of these individuals were observed on a single day (December 20, 2020) and outside both the estimated 195-m Level B harassment Zone and the 500 m Exclusion Zone (EZ) for North Atlantic right whales (closest

approaches were >900 m), they represent an increased amount of sightings observed during HRG surveys, though the information suggests that there were no takes. Updated model outputs from Roberts *et al.* (2020) also suggest that there has been a slight increase in North Atlantic right whale density in the survey area. Despite the increase in sightings and densities of North Atlantic right whales in the survey area, we believe that an updated unadjusted modeled exposure estimate based on these slightly increased densities would still represent a significant overestimate of the actual potential exposure, and therefore propose to carry over the same amount of take (10 individuals) as proposed in the initial IHA, which accounts for the expected mitigating effects on the actual taking of right whales.

As documented in Vineyard Wind's preliminary monitoring report, there was a number of sightings of delphinids both within the estimated 195 m Level B Harassment Zone and the 100 m EZ that were characterized by the PSOs as 'voluntary approaches.' A "voluntary approach" is defined as a purposeful approach toward the vessel by the delphinid(s) with a speed and vector that indicates that the delphinid(s) is approaching the vessels and remains near the vessel or towed equipment (BOEM 2014). Vineyard Wind PSOs reported 270 sightings of approximately 3,332 individual common dolphins within the estimated 195 m Level B harassment zone for the sparker. During these marine mammal observations, no behavior was observed that would be considered consistent with a behavioral response to harassment (*i.e.*, rapid swimming away from the sound source or vessel; repeated fin slaps or breaches; notable changes in behavior as a result of vessel approach), and no animals demonstrated signs of harm. Therefore, Vineyard Wind concluded that these animals did not experience Level B Harassment, as defined under the MMPA. Given that Vineyard Wind observed more common dolphins than expected, we propose to carry over the same amount of take (2,036 individuals) as proposed in the initial IHA, as opposed to decreasing it commensurate to the reduced amount of activity remaining. Thus, take numbers proposed in this IHA Renewal (Table 2) represent prorated estimates for all species except North Atlantic right whales, Risso's dolphins, and common dolphins whose proposed take estimates remain the same as authorized in the initial IHA.

On August 20, 2020 Vineyard Wind PSOs observed two white-beaked



dolphins within the 195 m Level B harassment zone for the sparker during the first year of Vineyard Wind’s survey activities. White-beaked dolphins were considered unlikely to be encountered in the survey area and, therefore, take was not considered reasonably likely to occur and was not authorized in the initial IHA. This species has historically been found in waters outside of the survey area, from southern New England to southern Greenland and Davis Straits (Leatherwood *et al.* 1976; CETAP 1982, Hayes *et al.* 2019), across the Atlantic to the Barents Sea and south to at least Portugal (Reeves *et al.* 1999). In waters off the northeastern U.S. coast, white-beaked dolphin sightings are typically concentrated in the western Gulf of Maine and around Cape Cod (CETAP 1982, Hayes *et al.*

2019). The dolphins observed during the 2020–2021 surveys were first sighted as unidentified dolphins due to the decreased visibility under sea state 3 conditions, creating challenges in identification. Given the dolphins were of genera *Delphinus*, *Lagenorhynchus*, or *Tursiops*, and in accordance with IHA condition 4(f)(vii), the PSO used their best professional judgment in determining that the animals were exempted from the shutdown requirement. After less than a minute of bow riding the dolphins began swimming away and at the end of the sighting the PSO was able to make a positive ID. The PSO determined the animal was leaving the zone and therefore no mitigation was required. The PSO determined that there was no behavioral change or signs of distress

and thus Vineyard Wind did not report the sighting as a potentially unauthorized Level B harassment take. Despite this single observation of white beaked dolphins, encounters with the species in the survey area remain unlikely. For example, no sightings of white beaked dolphins have been reported in monitoring reports from other IHAs issued in the same region in recent years. Therefore, NMFS has determined that the initial determination that take of the species is not reasonably likely to occur and, therefore, that take authorization for the species is not warranted. We have clarified with Vineyard Wind the need to communicate any sightings of rare species to NMFS as soon as possible.

TABLE 2—INITIAL IHA TAKE AUTHORIZED AND RENEWAL IHA PROPOSED TAKE

Species	Level B harassment		Percent population <sup>1</sup>
	Take authorized initial IHA	Proposed take renewal IHA	
Fin whale .....	67	51	1.1
Humpback whale .....	46	34	2.1
Minke whale .....	41	31	1.5
North Atlantic right whale .....	10	10	2.7
Sei whale .....	4	3	0.4
Atlantic white sided dolphin .....	1,011	758	2.0
Bottlenose dolphin (WNA Offshore) .....	815	611	1.0
Long-finned pilot whales .....	142	107	0.6
Risso’s dolphin .....	6	6	0.08
Common dolphin .....	2,036	2,036	2.3
Sperm whale .....	4	3	0.06
Harbor porpoise .....	1,045	784	1.7
Gray seal .....	4,044	3,033	11.17
Harbor seal .....	4,044	3,033	4.0

<sup>1</sup> Calculations of percentage of stock taken are based on the best available abundance estimate as shown in Table 2 in the notice of the final IHA for the initial authorization (85 FR 26940, May 06, 2020). In most cases the best available abundance estimate is provided by Roberts *et al.* (2016, 2017, 2018), when available, to maintain consistency with density estimates derived from Roberts *et al.* (2016, 2017, 2018). For North Atlantic right whales the best available abundance estimate is derived from the 2021 NOAA Technical Memorandum NMFS–NE–269 Revisions and Further Evaluations of the Right Whale Abundance Model: Improvements for Hypothesis Testing (Pace, 2021). For bottlenose dolphins and seals, Roberts *et al.* (2016, 2017, 2018) provides only a single abundance estimate and does not provide abundance estimates at the stock or species level (respectively), so abundance estimates used to estimate percentage of stock taken for bottlenose dolphins, gray and harbor seals are derived from NMFS SARs (Hayes *et al.*, 2019).

*Description of Proposed Mitigation, Monitoring and Reporting Measures*

The proposed mitigation, monitoring, and reporting measures included as requirements in this authorization are identical to those included in the FR Notice announcing the issuance of the initial IHA (85 FR 26940, May 06, 2020), and the discussion of the least practicable adverse impact included in that document and the notice of the proposed IHA remains accurate (85 FR 7952, February 12, 2020; 85 FR 26940, May 06, 2020). All mitigation, monitoring and reporting measures in the initial IHA are carried over to this proposed Renewal IHA and summarized here:

- **EZ:** Marine mammal EZs will be established around the HRG survey equipment and monitored by PSO during HRG surveys as follows: A 500-m EZ is required for North Atlantic right whales and a 100-m EZ is required for all other marine mammals (with the exception of certain genera of small delphinids (*i.e.*, *Delphinus*, *Lagenorhynchus*, and *Tursiops*) under certain circumstances, such as individuals voluntarily approaching the vessel). If a marine mammal is detected approaching or entering the EZs during the planned survey, the vessel operator would adhere to the shutdown procedures described below. In addition to the EZs described above, PSOs would

visually monitor a 200-m Buffer Zone; however, this Buffer Zone is not applicable when the EZ is greater than 100 meters. PSOs would also be required to observe a 500-m Monitoring Zone and record the presence of all marine mammals within this zone and within the Level B harassment zone. The zones described above would be based upon the radial distance from the active equipment (rather than being based on distance from the vessel itself).

- **PSO:** A minimum of two NMFS-approved PSOs must be on duty and conducting visual observations at all times on all active survey vessels when HRG equipment is operating, including both daytime and nighttime operations.



Visual monitoring would begin no less than 30 minutes prior to initiation of HRG survey equipment and would continue until 30 minutes after use of the acoustic source ceases or until 30 minutes past sunset. However, Vineyard Wind has committed to 24-hr use of PSOs. PSOs would establish and monitor the applicable EZs, Buffer Zone and Monitoring Zone as described above.

- **Pre-Operation Clearance Protocols:** Prior to initiating HRG survey activities, Vineyard Wind would implement a 30-minute pre-clearance period. Ramp-up of the survey equipment would not begin until the relevant zones (500-m EZ for North Atlantic right whales and 200-m Buffer Zone for all other species) have been cleared by the PSOs. If any marine mammals are detected within the relevant EZs or Buffer Zone during the pre-clearance period, initiation of HRG survey equipment would not begin until the animal(s) has been observed exiting the respective EZ or Buffer Zone, or, until an additional time period has elapsed with no further sighting (*i.e.*, minimum 15 minutes for small odontocetes and seals, and 30 minutes for all other species). The pre-clearance requirement would include small delphinids that approach the vessel (*e.g.*, bow ride). PSOs would also continue to monitor the zone for 30 minutes after survey equipment is shut down or survey activity has concluded.

- **Ramp-up:** A ramp-up procedure would be used for geophysical survey equipment capable of adjusting energy levels at the start or re-start of survey activities. Ramp-up of the survey equipment would not begin until the relevant EZs and Buffer Zone has been cleared by the PSOs, as described above. HRG equipment would be initiated at their lowest power output and would be incrementally increased to full power. If any marine mammals are detected within the EZs or Buffer Zone prior to or during ramp-up, the HRG equipment would be shut down (as described below).

- **Shutdown of HRG Equipment:** If an HRG source is active and a marine mammal is observed within or entering a relevant EZ (as described above) an immediate shutdown of the HRG survey equipment would be required. Note this shutdown requirement would be waived for certain genera of small delphinids as described above. Subsequent restart of the HRG equipment would only occur after the marine mammal has either been observed exiting the relevant EZ, or, until an additional time period has elapsed with no further sighting of the animal within the relevant EZ (*i.e.*, 15

minutes for small odontocetes and seals, and 30 minutes for all other species).

- **Vessel strike avoidance measures:** Separation distances for large whales (500 m North Atlantic Right Whales, 100 m other large whales; 50 m other cetaceans and pinnipeds), restricted vessel speeds, and operational maneuvers.

- **Seasonal Operating Requirements:**

- Vineyard Wind will conduct HRG survey activities in the Cape Cod Bay Mid-Atlantic U.S. Seasonal Management Area (SMA) and Off Race Point SMA only during the months of August and September to ensure sufficient buffer between the SMA restrictions (January to May 15) and known seasonal occurrence of the North Atlantic right whale north and northeast of Cape Cod (fall, winter, and spring). Vineyard Wind will also limit to three the number survey vessels that will operate concurrently from March through June within the lease areas (OCS-A 0501 and 0487) and offshore export cable corridor (OECC) areas north of the lease areas up to, but not including, coastal and bay waters. Another seasonal restriction area south of Nantucket will be in effect from December to February in the area delineated by the DMA that was effective from January 31, 2020 through February 15, 2020. In addition, Vineyard Wind would operate either a single vessel, two vessels concurrently or, for short periods, no more than three survey vessels concurrently in the areas described above during the December–February and March–June timeframes when right whale densities are greatest. The seasonal restrictions described above will help to reduce both the number and intensity of North Atlantic right whale takes.

- **Reporting:** Vineyard Wind will submit a final technical report within 90 days following completion of the surveys. In the event that Vineyard Wind personnel discover an injured or dead marine mammal, Vineyard Wind shall report the incident to the Office of Protected Resources (OPR), NMFS and to the New England/Mid-Atlantic Regional Stranding Coordinator as soon as feasible. In the event of a ship strike of a marine mammal by any vessel involved in the activities covered by the authorization, Vineyard Wind shall report the incident to OPR, NMFS and to the New England/Mid-Atlantic Regional Stranding Coordinator as soon as feasible.

#### Comments and Responses

As noted previously, NMFS published a notice of a proposed IHA (85 FR 7952, February 12, 2020) and solicited public comments on both our proposal to issue

the initial IHA for marine site characterization surveys and on the potential for a Renewal IHA, should certain requirements be met.

All public comments were addressed in the notice announcing the issuance of the initial IHA (85 FR 26940, May 06, 2020). Below, we describe how we have addressed, with updated information where appropriate, any comments received that specifically pertain to the Renewal of the 2020 IHA.

**Comment:** The Marine Mammal Commission (Commission) recommended that NMFS refrain from issuing Renewals for any authorization and instead use its abbreviated **Federal Register** notice process. They argued that the process is similarly expeditious and fulfills NMFS's intent to maximize efficiencies, and that NMFS (1) stipulate that a Renewal is a one-time opportunity (a) in all **Federal Register** notices requesting comments on the possibility of a Renewal, (b) on its web page detailing the Renewal process, and (c) in all draft and final authorizations that include a term and condition for a Renewal and, (2) if NMFS refuses to stipulate a Renewal being a one-time opportunity, explain why it will not do so in its **Federal Register** notices, on its web page, and in all draft and final authorizations.

**Response:** NMFS expressed how it does not agree with the Commission that we instead use the abbreviated notice process and did not adopt the Commission's recommendation. As explained in the response to the following comment, NMFS believes Renewals can be issued in certain limited circumstances.

The Commission was also concerned that NMFS had not explicitly identified that a 1-year Renewal IHA was a one-time opportunity in our **Federal Register** notices nor on our website. NMFS has since identified in **Federal Register** notices and on our website that a Renewal IHA is one time opportunity.

**Comment:** A group of environmental non-governmental organizations (ENGOs) objected to NMFS' process to consider extending any 1-year IHA with a truncated 15-day comment period as contrary to the MMPA.

**Response:** NMFS' IHA Renewal process meets all statutory requirements. All IHAs issued, whether an initial IHA or a Renewal IHA, are valid for a period of not more than 1 year. And the public has at least 30 days to comment on all proposed IHAs, with a cumulative total of 45 days for IHA Renewals. As noted above, the Request for Public Comments section in the initial IHA made clear that the agency was seeking comment on both the initial

proposed IHA and the potential issuance of a Renewal for this project. Because any Renewal (as explained in the Request for Public Comments section in the initial IHA) is limited to another year of identical or nearly identical activities in the same location (as described in the Description of Proposed Activity section in the initial IHA) or the same activities that were not completed within the one-year period of the initial IHA, reviewers have the information needed to effectively comment on both the immediate proposed IHA and a possible 1-year Renewal, should the IHA holder choose to request one.

While there are additional documents submitted with a Renewal request, for a qualifying Renewal these are limited to documentation that NMFS will make available and use to verify that the activities are identical to those in the initial IHA, are nearly identical such that the changes would have either no effect on impacts to marine mammals or decrease those impacts, or are a subset of activities already analyzed and authorized but not completed under the initial IHA. NMFS will also confirm, among other things, that the activities will occur in the same location; involve the same species and stocks; provide for continuation of the same mitigation, monitoring, and reporting requirements; and that no new information has been received that would alter the prior analysis. The renewal request also contains a preliminary monitoring report, but that is to verify that effects from the activities do not indicate impacts of a scale or nature not previously analyzed. The additional 15-day public comment period provides the public an opportunity to review these few documents, provide any additional pertinent information and comment on whether they think the criteria for a renewal have been met. NMFS also will provide direct notice of the proposed Renewal to those who commented on the initial IHA, to provide an opportunity to submit any additional comments. Between the initial 30-day comment period on these same activities and the additional 15 days, the total comment period for a renewal is 45 days.

In addition to the IHA Renewal process being consistent with all requirements under section 101(a)(5)(D), it is also consistent with Congress's intent for issuance of IHAs to the extent reflected in statements in the legislative history of the MMPA. Through the provision for Renewals in the regulations, description of the process and express invitation to comment on specific potential Renewals in the

Request for Public Comments section of each proposed IHA, the description of the process on NMFS' website, further elaboration on the process through responses to comments such as these, posting of substantive documents on the agency's website, and provision of 30 or 45 days for public review and comment on all proposed initial IHAs and Renewals respectively, NMFS has ensured that the public "is invited and encouraged to participate fully in the agency decision-making process."

For more information, NMFS has published a description of the Renewal process on our website (available at <https://www.fisheries.noaa.gov/national/marine-mammal-protection/incidental-harassment-authorization-renewals>).

### Preliminary Determinations

The survey activities proposed by Vineyard Wind are identical to (and a subset of) those analyzed in the initial IHA, as are the method of taking and the effects of the action. The mitigation measures and monitoring and reporting requirements as described above are also identical to the initial IHA. The planned number of days of activity will be reduced given the completion of a small portion of the originally planned work. Therefore, the amount of take proposed is equal to or less than that authorized in the initial IHA. The potential effect of Vineyard Winds' activities remains limited to Level B harassment in the form of behavioral disturbance. In analyzing the effects of the activities in the initial IHA, NMFS determined that Vineyard Wind's activities would have a negligible impact on the affected species or stocks and that the authorized take numbers of each species or stock were small relative to the relevant stocks (*e.g.*, less than one-third of the abundance of all stocks).

NMFS has preliminarily concluded that there is no new information suggesting that our analysis or findings should change from those reached for the initial IHA. This includes consideration of the estimated abundances of four stocks (North Atlantic right whales, humpback whales, fin whales, and minke whales) decreasing and the estimated abundances of one stock (common dolphins) increasing (Hayes *et al.* 2020, Pace 2021). This also includes consideration of the increased density estimates for North Atlantic right whales based on updated model outputs from Roberts *et al.* (2020) as described above in the *Estimated Take* section. Based on the information and analysis contained here and in the referenced

documents, NMFS has determined the following: (1) The required mitigation measures will effect the least practicable impact on marine mammal species or stocks and their habitat; (2) the authorized takes will have a negligible impact on the affected marine mammal species or stocks; (3) the authorized takes represent small numbers of marine mammals relative to the affected stock abundances; (4) Vineyard Wind's activities will not have an unmitigable adverse impact on taking for subsistence purposes as no relevant subsistence uses of marine mammals are implicated by this action, and; (5) appropriate monitoring and reporting requirements are included.

### Endangered Species Act

Section 7(a)(2) of the Endangered Species Act of 1973 (16 U.S.C. 1531 *et seq.*) requires that each Federal agency insure that any action it authorizes, funds, or carries out is not likely to jeopardize the continued existence of any endangered or threatened species or result in the destruction or adverse modification of designated critical habitat. To ensure ESA compliance for the issuance of IHAs, NMFS consults internally, in this case with the NMFS Greater Atlantic Regional Fisheries Office (GARFO), whenever we propose to authorize take for endangered or threatened species.

The NMFS Office of Protected Resources is authorizing the incidental take of four species of marine mammals which are listed under the ESA: The North Atlantic right, fin, sei and sperm whale. We requested initiation of consultation under Section 7 of the ESA with NMFS GARFO on February 12, 2020, for the issuance of this IHA. BOEM consulted with NMFS GARFO under section 7 of the ESA on commercial wind lease issuance and site assessment activities on the Atlantic Outer Continental Shelf in Massachusetts, Rhode Island, New York and New Jersey Wind Energy Areas. The NMFS GARFO issued a Biological Opinion concluding that these activities may adversely affect but are not likely to jeopardize the continued existence of the North Atlantic right, fin, sei and sperm whale. Upon request from the NMFS Office of Protected Resources, NMFS GARFO issued an amended incidental take statement associated with this Biological Opinion to include the take of the ESA-listed marine mammal species authorized through this IHA in April 2020. On May 12, 2021 NMFS GARFO determined that their initial consultation remains valid and that the proposed MMPA Renewal IHA provides no new information about

the effects of the action, nor does it change the extent of effects of the action, or any other basis to require reinitiation of the opinion.

### Proposed Renewal IHA and Request for Public Comment

As a result of these preliminary determinations, NMFS proposes to issue a Renewal IHA to Vineyard Wind for conducting marine site characterization survey activities off the coast of Massachusetts in the areas of the Commercial Lease of Submerged Lands for Renewable Energy Development on the Outer Continental Shelf (OCS-A 0501 and OCS-A 0522) and along potential submarine cable routes to landfall locations in Massachusetts, Rhode Island, Connecticut, and New York for a period of one year from the date of issuance, provided the previously described mitigation, monitoring, and reporting requirements are incorporated. A draft of the proposed and final initial IHA can be found at <https://www.fisheries.noaa.gov/permit/incidental-take-authorizations-under-marine-mammal-protection-act>. We request comment on our analyses, the proposed Renewal IHA, and any other aspect of this Notice. Please include with your comments any supporting data or literature citations to help inform our final decision on the request for MMPA authorization.

Dated: June 2, 2021.

**Catherine Marzin,**

*Acting Director, Office of Protected Resources, National Marine Fisheries Service.*

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**BILLING CODE 3510-22-P**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### Agency Information Collection Activities; Submission to the Office of Management and Budget (OMB) for Review and Approval; Comment Request; Application for Commercial Fisheries Authorization Under Section 118 of the Marine Mammal Protection Act (MMPA)

**AGENCY:** National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Notice of information collection, request for comment.

**SUMMARY:** The Department of Commerce, in accordance with the Paperwork Reduction Act of 1995 (PRA), invites the general public and

other Federal agencies to comment on proposed, and continuing information collections, which helps us assess the impact of our information collection requirements and minimize the public's reporting burden. The purpose of this notice is to allow for 60 days of public comment preceding submission of the collection to OMB.

**DATES:** To ensure consideration, comments regarding this proposed information collection must be received on or before August 9, 2021.

**ADDRESSES:** Interested persons are invited to submit written comments to Adrienne Thomas, NOAA PRA Officer, at [Adrienne.thomas@noaa.gov](mailto:Adrienne.thomas@noaa.gov). Please reference OMB Control Number 0648-0293 in the subject line of your comments. Do not submit Confidential Business Information or otherwise sensitive or protected information.

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information or specific questions related to collection activities should be directed to Jaclyn Taylor, National Marine Fisheries Service Office of Protected Resources, 301-427-8402 or [Jaclyn.Taylor@noaa.gov](mailto:Jaclyn.Taylor@noaa.gov).

#### SUPPLEMENTARY INFORMATION:

##### I. Abstract

National Marine Fisheries Service's (NMFS) Office of Protected Resources sponsors this information collection and is requesting renewal of the currently approved collection.

Section 118 of the Marine Mammal Protection Act requires any commercial fisherman operating in Category I and II fisheries to register for a certificate of authorization that will allow the fisherman to take marine mammals incidental to commercial fishing operations. Category I and II fisheries are those identified by NOAA as having either frequent or occasional takings of marine mammals. All states have integrated the NMFS registration process into the existing state fishery registration process and vessel owners do not need to file a separate federal registration. If applicable, vessel owners will be notified of this simplified registration process when they apply for their state or Federal permit or license. A valid certificate of authorization protects the vessel owner from prosecution under the MMPA for violation of the moratorium on taking marine mammals. The information needed to register or update a commercial fishery authorization is found at 50 CFR 229.4.

##### II. Method of Collection

Fishermen's information is imported directly into the Marine Mammal Authorization Program (MMAP) from their state. If they do not have a state or Federal fishery permit or license, fishermen can request a MMAP registration form (OMB No. 0648-0293) from their NMFS regional office and mail in the registration form.

##### III. Data

*OMB Control Number:* 0648-0293.

*Form Number(s):* None.

*Type of Review:* Regular submission (extension of existing information collection).

*Affected Public:* Individuals or households; Business or other for-profit organizations.

*Estimated Number of Respondents:* 100.

*Estimated Time per Response:* Initial registration 15 minutes.

*Estimated Total Annual Burden Hours:* 25 hours.

*Estimated Total Annual Cost to Public:* \$2,555 in recordkeeping/reporting costs and application fees.

*Respondent's Obligation:* Mandatory.

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

##### IV. Request for Comments

We are soliciting public comments to permit the Department/Bureau to: (a) Evaluate whether the proposed information collection is necessary for the proper functions of the Department, including whether the information will have practical utility; (b) Evaluate the accuracy of our estimate of the time and cost burden for this proposed collection, including the validity of the methodology and assumptions used; (c) Evaluate ways to enhance the quality, utility, and clarity of the information to be collected; and (d) Minimize the reporting burden on those who are to respond, including the use of automated collection techniques or other forms of information technology.

Comments that you submit in response to this notice are a matter of public record. We will include or summarize each comment in our request to OMB to approve this ICR. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you may ask us in your comment to withhold your personal identifying information from public review, we

cannot guarantee that we will be able to do so.

**Sheleen Dumas,**

*Department PRA Clearance Officer, Office of the Chief Information Officer, Commerce Department.*

[FR Doc. 2021-11929 Filed 6-7-21; 8:45 am]

**BILLING CODE 3510-22-P**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### Agency Information Collection Activities; Submission to the Office of Management and Budget (OMB) for Review and Approval; Comment Request; Aleutian Islands Pollock Fishery Requirements

**AGENCY:** National Oceanic & Atmospheric Administration (NOAA), Commerce.

**ACTION:** Notice of information collection, request for comment.

**SUMMARY:** The Department of Commerce, in accordance with the Paperwork Reduction Act of 1995 (PRA), invites the general public and other Federal agencies to comment on proposed, and continuing information collections, which helps us assess the impact of our information collection requirements and minimize the public's reporting burden. The purpose of this notice is to allow for 60 days of public comment preceding submission of the collection to OMB.

**DATES:** To ensure consideration, comments regarding this proposed information collection must be received on or before August 9, 2021.

**ADDRESSES:** Interested persons are invited to submit written comments to Adrienne Thomas, NOAA PRA Officer, at [Adrienne.thomas@noaa.gov](mailto:Adrienne.thomas@noaa.gov). Please reference OMB Control Number 0648-0513 in the subject line of your comments. Do not submit Confidential Business Information or otherwise sensitive or protected information.

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information or specific questions related to collection activities should be directed to Gabrielle Aberle (907) 586-7356.

#### SUPPLEMENTARY INFORMATION:

##### I. Abstract

The National Marine Fisheries Service (NMFS), Alaska Regional Office, is requesting renewal of a currently approved information collection that contains the requirements for the annual

participant letter for the Aleutian Islands pollock fishery.

Amendment 82 to the Fishery Management Plan for Groundfish of the Bering Sea and Aleutian Islands Management Area (FMP) established a framework for the management of the Aleutian Islands subarea (AI) directed pollock fishery. The Aleut Corporation receives an annual AI pollock allocation for the purpose of economic development in Adak, Alaska. The Aleut Corporation is identified in Public Law 108-199 as a business incorporated pursuant to the Alaska Native Claims Settlement Act (43 U.S.C. 1601 *et seq.*). Regulations implementing the FMP appear at 50 CFR part 679.

The Aleut Corporation's AI pollock fishery is set up so that harvesting pollock in the AI directed pollock fishery and processing pollock taken in the AI directed pollock fishery are authorized only for those harvesters and processors that are selected by the Aleut Corporation and approved by the NMFS Regional Administrator.

Each year and at least 14 days before harvesting pollock or processing pollock in the AI directed pollock fishery, the Aleut Corporation must submit its selections to NMFS. The information submitted by the Aleut Corporation consists of the names of the harvesting vessels and processors it has selected, the Federal fisheries permit numbers or Federal processor permit numbers of the participants, and the fishing year for which approval is requested.

On approval, NMFS sends the Aleut Corporation a letter that includes a list of the approved participants. A copy of this letter must be retained on board each participating vessel and on site at each shoreside processor at all times.

This information collection is necessary for NMFS to obtain the list of vessels and processors selected by the Aleut Corporation to harvest and process its annual AI pollock allocation. The Aleut Corporation is required by Federal regulations at 50 CFR 679.4(m)(2) to provide its selected harvesters and processors to NMFS for approval. Without this information, NMFS would not know the participants selected by the Aleut Corporation and harvest rates could not be determined, which may result in allocations being exceeded.

##### II. Method of Collection

The Aleut Corporation submits the participant letter to NMFS by mail, email, or fax.

##### III. Data

*OMB Control Number:* 0648-0513.

*Form Number(s):* None.

*Type of Review:* Regular submission (extension of a current information collection).

*Affected Public:* Business or other for-profit organizations.

*Estimated Number of Respondents:* 1.

*Estimated Time per Response:* Annual Aleutian Islands Fishery Participant Letter, 16 hrs.

*Estimated Total Annual Burden Hours:* 16 hrs.

*Estimated Total Annual Cost to Public:* \$5.

*Respondent's Obligation:* Required to Obtain or Retain Benefits.

*Legal Authority:* Consolidated Appropriations Act of 2004; Magnuson-Stevens Fishery Conservation and Management Act.

#### IV. Request for Comments

We are soliciting public comments to permit the Department/Bureau to: (a) Evaluate whether the proposed information collection is necessary for the proper functions of the Department, including whether the information will have practical utility; (b) Evaluate the accuracy of our estimate of the time and cost burden for this proposed collection, including the validity of the methodology and assumptions used; (c) Evaluate ways to enhance the quality, utility, and clarity of the information to be collected; and (d) Minimize the reporting burden on those who are to respond, including the use of automated collection techniques or other forms of information technology.

Comments that you submit in response to this notice are a matter of public record. We will include or summarize each comment in our request to OMB to approve this ICR. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you may ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

**Sheleen Dumas,**

*Department PRA Clearance Officer, Office of the Chief Information Officer, Commerce Department.*

[FR Doc. 2021-12002 Filed 6-7-21; 8:45 am]

**BILLING CODE 3510-22-P**

**DEPARTMENT OF COMMERCE****National Oceanic and Atmospheric Administration****Agency Information Collection Activities; Submission to the Office of Management and Budget (OMB) for Review and Approval; Comment Request; NOAA Community-Based Restoration Program Progress Reports**

**AGENCY:** National Oceanic & Atmospheric Administration (NOAA), Commerce.

**ACTION:** Notice of information collection, request for comment.

**SUMMARY:** The Department of Commerce, in accordance with the Paperwork Reduction Act of 1995 (PRA), invites the general public and other Federal agencies to comment on proposed, and continuing information collections, which helps us assess the impact of our information collection requirements and minimize the public's reporting burden. The purpose of this notice is to allow for 60 days of public comment preceding submission of the collection to OMB.

**DATES:** To ensure consideration, comments regarding this proposed information collection must be received on or before August 9, 2021.

**ADDRESSES:** Interested persons are invited to submit written comments to Adrienne Thomas, NOAA PRA Officer, at [Adrienne.thomas@noaa.gov](mailto:Adrienne.thomas@noaa.gov). Please reference OMB Control Number 0648-0472 in the subject line of your comments. Do not submit Confidential Business Information or otherwise sensitive or protected information.

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information or specific questions related to collection activities should be directed to Janine Harris, Marine Habitat Resource Specialist, Office of Habitat Conservation, Restoration Center, 1315-East-West Highway, Silver Spring, MD 20910, (301-427-8625) or [Janine.harris@noaa.gov](mailto:Janine.harris@noaa.gov).

**SUPPLEMENTARY INFORMATION:****I. Abstract**

This request is for extension of a currently approved information collection. The NOAA Restoration Center (NOAA RC) is sponsoring this collection. NOAA RC provides technical and financial assistance to identify, develop, implement, and evaluate community-driven habitat restoration projects. Awards are made as grants or cooperative agreements under the authority of the Magnuson-Stevens Fishery Conservation and Management

Act of 2006, 16 U.S.C. 1891a and the Fish and Wildlife Coordination Act, 16 U.S.C. 661, as amended by the Reorganization Plan No. 4 of 1970.

The NOAA RC requires collection of specific information on habitat restoration projects that we fund, as part of routine progress reporting. Recipients of NOAA RC funds submit information such as project location, restoration techniques used, species benefited, acres restored, stream miles opened to access for diadromous fish, volunteer participation, and other parameters.

The required information enables NOAA to track, evaluate and report on coastal and marine habitat restoration and demonstrate accountability for federal funds. This information is used to populate a database of NOAA RC-funded habitat restoration. The database, with its robust querying capabilities, is instrumental to provide accurate and timely responses to NOAA, Department of Commerce, Congressional and constituent inquiries. It also facilitates reporting by NOAA on the Government Performance and Results Act "acres restored" performance measure. Grant recipients are required by the NOAA Grants Management Division to submit periodic performance reports and a final report for each award; this collection stipulates the information to be provided in these reports.

There are two progress report forms for simplicity. The Performance Report Form focuses on tracking project implementation, milestones, performance measures, monitoring, and expenditures. The Administrative Form only applies to recipients with an award that will implement multiple projects. It collects information on the administration of the award, the number of projects supported by the award, and award expenditures. The Project Performance Report and Administration Report Forms and Example Report Form Instructions can be reviewed under the Progress Reporting heading at <https://www.fisheries.noaa.gov/national/habitat-conservation/resources-noaa-restoration-center-applicants#progress-reporting>.

**II. Method of Collection**

NOAA's preferred method of collection is submission of electronic fillable forms attached to an award file in Grants Online, NOAA's award management system.

**III. Data**

*OMB Control Number:* 0648-0472.  
*Form Number(s):* None.

*Type of Review:* Regular submission (extension of a current information collection).

*Affected Public:* Not-for-profit institutions; State, Local, or Tribal government; business or other for profit organizations.

*Estimated Number of Respondents:* 130.

*Estimated Time per Response:* Performance Report Form initial reports, 9 hour 30 minutes; Performance Report Form semi-annual reports, 5 hours 30 minutes; Performance Report Form final reports, 9 hours 45 minutes; Administrative Report Form initial reports, 6 hours; Administrative Report Form semi-annual reports, 2 hours 45 minutes; and Administrative Report Forms final reports, 5 hours 30 minutes.

*Estimated Total Annual Burden Hours:* 1,846.

*Estimated Total Annual Cost to Public:* \$0 in recordkeeping/reporting costs.

*Respondent's Obligation:* Mandatory.

*Legal Authority:* Magnuson-Stevens Fishery Conservation and Management Act of 2006, 16 U.S.C. 1891a and the Fish and Wildlife Coordination Act, 16 U.S.C. 661, as amended by the Reorganization Plan No. 4 of 1970.

**IV. Request for Comments**

We are soliciting public comments to permit the Department/Bureau to: (a) Evaluate whether the proposed information collection is necessary for the proper functions of the Department, including whether the information will have practical utility; (b) Evaluate the accuracy of our estimate of the time and cost burden for this proposed collection, including the validity of the methodology and assumptions used; (c) Evaluate ways to enhance the quality, utility, and clarity of the information to be collected; and (d) Minimize the reporting burden on those who are to respond, including the use of automated collection techniques or other forms of information technology.

Comments that you submit in response to this notice are a matter of public record. We will include or summarize each comment in our request to OMB to approve this ICR. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you may ask us in your comment to withhold your personal identifying information from public review, we

cannot guarantee that we will be able to do so.

**Sheleen Dumas,**

*Department PRA Clearance Officer, Office of the Chief Information Officer, Commerce Department.*

[FR Doc. 2021-11928 Filed 6-7-21; 8:45 am]

**BILLING CODE 3510-22-P**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### Agency Information Collection Activities; Submission to the Office of Management and Budget (OMB) for Review and Approval; Comment Request; Questionnaire for National Oceanic and Atmospheric Administration Federal Financial Assistance Applicants

**AGENCY:** National Oceanic & Atmospheric Administration (NOAA), Commerce.

**ACTION:** Notice of information collection, request for comment.

**SUMMARY:** The Department of Commerce, in accordance with the Paperwork Reduction Act of 1995 (PRA), invites the general public and other Federal agencies to comment on proposed, and continuing information collections, which helps us assess the impact of our information collection requirements and minimize the public's reporting burden. The purpose of this notice is to allow for 60 days of public comment preceding submission of the collection to OMB.

**DATES:** To ensure consideration, comments regarding this proposed information collection must be received on or before August 9, 2021.

**ADDRESSES:** Interested persons are invited to submit written comments to Adrienne Thomas, NOAA PRA Officer, at [Adrienne.thomas@noaa.gov](mailto:Adrienne.thomas@noaa.gov). Please reference OMB Control Number 0648-0538 in the subject line of your comments. Do not submit Confidential Business Information or otherwise sensitive or protected information.

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information or specific questions related to collection activities should be directed Frank M. Sprtel, (301) 628-1641 or [frank.sprtel@noaa.gov](mailto:frank.sprtel@noaa.gov).

#### SUPPLEMENTARY INFORMATION:

##### I. Abstract

This request is for a revision and extension of a currently approved information collection through the

*Environmental Compliance Questionnaire for National Oceanic and Atmospheric Administration Federal Financial Assistance Applicants* (Questionnaire). This Questionnaire is used by the National Oceanic and Atmospheric Administration (NOAA) to collect information about proposed activities for the purpose of complying with the National Environmental Policy Act ("NEPA," 42 U.S.C. 4321-4370) and other environmental compliance requirements associated with proposed activities. NEPA requires federal agencies to complete an environmental analysis for all major federal actions, including funding non-federal activities through federal financial assistance awards where federal participation in the funded activity is expected to be significant. The Questionnaire is used in conjunction with NOAA Notices of Funding Opportunity (NOFO).

The NOFO will indicate the specific questions to which an applicant must respond in one of three ways: (1) The applicable questions are inserted directly into the NOFO with reference to the OMB Approval Number (0648-0538) for this form; (2) the NOFO will specify which questions (e.g., 1, 2) an applicant must answer, with the entire OMB-approved Questionnaire attached to the NOFO; or (3) applicants to be recommended for funding will be required to answer relevant questions from the Questionnaire. The federal program officer will determine which questions are relevant to each specific applicant. Answers must be provided before the application can be submitted for final funding approval.

This Questionnaire has been revised to (1) update specific questions to use plain language, and (2) add questions that would be helpful to a wider range of NOAA programs.

##### II. Method of Collection

The information may be submitted electronically or on paper (faxed or mailed).

##### III. Data

*OMB Control Number:* 0648-0538.

*Form Number(s):* None.

*Type of Review:* Regular submission. Revision and extension of a current information collection.

*Affected Public:* Individuals or households; Business or other for-profit organizations; Not-for-profit institutions; State, Local, or Tribal government.

*Estimated Number of Respondents:* 736.

*Estimated Time per Response:* 3.375 hours.

*Estimated Total Annual Burden Hours:* 1,030.

*Estimated Total Annual Cost to Public:* \$0 in recordkeeping/reporting costs.

*Respondent's Obligation:* Required to obtain or retain benefits.

*Legal Authority:* National Environmental Policy Act (42 U.S.C. 4321-4370).

#### IV. Request for Comments

We are soliciting public comments to permit the Department/Bureau to: (a) Evaluate whether the proposed information collection is necessary for the proper functions of the Department, including whether the information will have practical utility; (b) Evaluate the accuracy of our estimate of the time and cost burden for this proposed collection, including the validity of the methodology and assumptions used; (c) Evaluate ways to enhance the quality, utility, and clarity of the information to be collected; and (d) Minimize the reporting burden on those who are to respond, including the use of automated collection techniques or other forms of information technology.

Comments that you submit in response to this notice are a matter of public record. We will include or summarize each comment in our request to OMB to approve this ICR. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you may ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

**Sheleen Dumas,**

*Department PRA Clearance Officer, Office of the Chief Information Officer, Commerce Department.*

[FR Doc. 2021-12000 Filed 6-7-21; 8:45 am]

**BILLING CODE 3510-12-P**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

[RTID 0648-XB144]

#### New England Fishery Management Council; Public Meeting

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

**ACTION:** Notice of public meeting.

**SUMMARY:** The New England Fishery Management Council (Council, NEFMC) will hold a three-day meeting to consider actions affecting New England fisheries in the exclusive economic zone (EEZ). Due to ongoing public safety considerations related to COVID-19, this meeting will be conducted entirely by webinar.

**DATES:** The webinar meeting will be held on Tuesday, Wednesday, and Thursday, June 22–24, 2021, beginning at 9 a.m. each day.

**ADDRESSES:** All meeting participants and interested parties can register to join the webinar at <https://attendee.gotowebinar.com/register/575795962545827087>.

*Council address:* New England Fishery Management Council, 50 Water Street, Mill 2, Newburyport, MA 01950; telephone: (978) 465–0492; [www.nefmc.org](http://www.nefmc.org).

**FOR FURTHER INFORMATION CONTACT:** Thomas A. Nies, Executive Director, New England Fishery Management Council; telephone: (978) 465–0492, ext. 113.

**SUPPLEMENTARY INFORMATION:**

**Agenda**

*Tuesday, June 22, 2021*

After introductions and brief announcements, the Council will receive reports on recent activities from its Chairman and Executive Director, NMFS's Greater Atlantic Regional Fisheries Office (GARFO) Regional Administrator, the Northeast Fisheries Science Center (NEFSC) Director, the Mid-Atlantic Fishery Management Council liaison, staff from the Atlantic States Marine Fisheries Commission (ASMFC), and representatives from NOAA General Counsel, the U.S. Coast Guard, NOAA's Office of Law Enforcement, the Stellwagen Bank National Marine Sanctuary, and the Northeast Trawl Advisory Panel. Next, members of the public will have the opportunity to speak during an open comment period on issues that relate to Council business but are not included on the published agenda for this meeting. The Council asks the public to limit remarks to 3–5 minutes. These comments will be received through the webinar. A guide for how to publicly comment through the webinar is available on the Council website at [https://s3.amazonaws.com/nefmc.org/NEFMC-meeting-remote-participation\\_generic.pdf](https://s3.amazonaws.com/nefmc.org/NEFMC-meeting-remote-participation_generic.pdf). Following the public comment period, the Council will: (1) Receive a briefing from the Acting NOAA Fisheries Assistant

Administrator on a draft White House report titled "Conserving and Restoring America the Beautiful"; and (2) discuss how it applies to fisheries. Related to this report, the Council also will discuss the Council Coordination Committee's (CCC) decision to form a CCC subcommittee on area-based management to address items in the draft White House report related to increasing fisheries conservation through expanded usage of area-based management. Next, the Council will receive a presentation on a draft NMFS procedural directive on applying information law to electronic monitoring (EM) data in U.S. fisheries. The Council will approve comments on the draft directive.

Following the lunch break, the Council will receive the Habitat Committee Report, which will include: (1) Updates from GARFO, NEFSC, and the Bureau of Ocean Energy Management (BOEM) on offshore wind-related projects and activities; and (2) updates on the Council's habitat-related work, including efforts to revise the Council's Wind Energy Policy. The Scallop Committee Report will be next. The Council will discuss and approve research priorities for the 2022–23 Scallop Research Set-Aside (RSA) Program. It also will initiate Framework Adjustment 34 to the Atlantic Sea Scallop Fishery Management Plan (FMP), which will include 2022 fishery specifications, 2023 default specifications, and other measures. Additionally, the Council will receive a short update on work being done to evaluate the scallop fishery's rotational area management program. Finally, the Council will review a letter from the Scallopers Campaign that was sent to NMFS requesting secretarial action to implement a scallop leasing program. At the request of GARFO, the Council will approve a response to this letter. As the final order of business for the day, the Council will receive an update from GARFO on the 2021 Atlantic Sea Scallop Biological Opinion to address turtle interactions in the fishery.

*Wednesday, June 23, 2021*

The Council will start off the day with a progress report from its Atlantic Herring Committee, which will begin with a discussion of Framework Adjustment 9 to the Atlantic Herring FMP. First, the Council will: (1) Receive the Scientific and Statistical Committee's (SSC) recommendations on herring rebuilding plan alternatives to address the overfished status of Atlantic herring; and (2) receive an update on the framework's rebuilding plan alternatives, as well as measures to

potentially adjust herring accountability measures. Second, the Council will receive an update on Framework Adjustment 7, which is an action to protect adult spawning herring on Georges Bank. Next, the Council will take up 2021–25 Council Research Priorities by first hearing the SSC's recommendations on research priorities and then discussing and approving the final list.

Following the lunch break, the Council will receive the Groundfish Report, which will cover three items. The first item relates to acceptable biological catch (ABC) control rules. The Council will receive a presentation on a draft report titled "Evaluation of Alternative Harvest Control Rules for New England Groundfish," which will be followed by the SSC's comments on the ABC control rule presentation and report. The Council then will discuss the draft report, as well as the SSC's comments, and provide further guidance as needed on the work being done to evaluate an alternative ABC control rule for groundfish. Next, the Council will receive a progress report on the Atlantic Cod Stock Structure Working Groups' public workshops and other activities. Then, the Council will initiate Framework Adjustment 62 to the Groundfish FMP, which will include (1) 2022 total allowable catches (TACs) for U.S./Canada shared resources on Georges Bank (GB), (2) 2022–24 specifications for GB cod, Gulf of Maine (GOM) cod, GB haddock, and GOM haddock, (3) 2022–23 specifications for GB yellowtail and 2022 specifications for white hake, and (4) other measures. The Council then will adjourn for the day.

*Thursday, June 24, 2021*

The Council will begin the third day of its meeting with the Skate Committee Report, which will include three items: (1) An update on 2022–23 specifications; (2) an update on Amendment 5 to the Northeast Skate Complex FMP; and (3) consideration of updating the existing control dates for both the skate wing and skate bait fisheries. Then, the Council will discuss and approve comments on a draft NMFS policy directive and procedural guidance for financial disclosures and recusals for regional fishery management councils. Next, the Council will hear from its Ecosystem-Based Fishery Management (EBFM) Management Strategy Evaluation (MSE) Steering Committee. The Council will review and approve the Steering Committee's plan for informational workshops using public outreach materials and focusing on potential



application to a Georges Bank example Fishery Ecosystem Plan (eFEP).

Following the lunch break, the Council will be briefed on the NOAA Fisheries Southeast Region's for-hire electronic reporting requirements and their application to New England recreational party/charter vessels that possess permits for South Atlantic species. Next, the Council will receive a presentation from the NMFS Highly Migratory Species (HMS) Management Division on Amendment 13 to the Consolidated HMS Fishery Management Plan, which focuses on bluefin tuna issues. The Council will discuss and approve comments on this proposed rule. Immediately following, the Council will receive reports on recent meetings of NMFS's HMS Advisory Panel and the Advisory Committee to the U.S. Section of the International Commission for the Conservation of Atlantic Tunas. The Council then will close out the meeting with other business.

Although non-emergency issues not contained on this agenda may come before the Council for discussion, those issues may not be the subject of formal action during this meeting. Council action will be restricted to those issues specifically listed in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the Council's intent to take final action to address the emergency. The public also should be aware that the meeting will be recorded. Consistent with 16 U.S.C. 1852, a copy of the recording is available upon request.

### Special Accommodations

This meeting is being conducted entirely by webinar. Requests for auxiliary aids should be directed to Thomas A. Nies (see **ADDRESSES**) at least 5 days prior to the meeting date.

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

Dated: June 3, 2021.

**Tracey L. Thompson,**

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

[FR Doc. 2021-11986 Filed 6-7-21; 8:45 am]

**BILLING CODE 3510-22-P**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### Agency Information Collection Activities; Submission to the Office of Management and Budget (OMB) for Review and Approval; Comment Request; Applications and Reporting Requirements for the Incidental Take of Marine Mammals by Specified Activities Under the Marine Mammal Protection Act

The Department of Commerce will submit the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995, on or after the date of publication of this notice. We invite the general public and other Federal agencies to comment on proposed, and continuing information collections, which helps us assess the impact of our information collection requirements and minimize the public's reporting burden. Public comments were previously requested via the **Federal Register** on January 29, 2021 (86 FR 7544) during a 60-day comment period. This notice allows for an additional 30 days for public comments.

**Agency:** National Oceanic & Atmospheric Administration (NOAA), Commerce.

**Title:** Applications and Reporting Requirements for the Incidental Take of Marine Mammals by Specified Activities Under the Marine Mammal Protection Act.

**OMB Control Number:** 0648-0151.

**Form Number(s):** None.

**Type of Request:** Regular submission (extension of a current information collection).

**Number of Respondents:** 699.

**Average Hours per Response:** 281 hours for an Incidental Harassment Authorization (IHA) application; 30 hours for an IHA Interim Draft Report; 140 hours for an IHA draft annual report; 28 hours for an IHA final annual report (if applicable); 1,200 hours for the initial preparation of an application for new regulations; 70 hours for an annual Letter of Authorization (LOA) application; 225 hours for an LOA draft annual report; 70 hours for a LOA final annual report (if applicable); 640 hours for a LOA draft comprehensive report; 300 hours for an LOA final comprehensive report; 140 hours for a Gulf of Mexico Rule (GOM) draft annual report; 28 hours for a GOM final annual report; and 1,540 hours for PAM/PSO Surveys. Response times will vary for

the public based upon the complexity of the requested action.

**Total Annual Burden Hours:** 259,743.  
**Needs and Uses:** This request is for an extension of a currently approved information collection, 0648-0151.

The Marine Mammal Protection Act of 1972 (MMPA; 16 U.S.C. 1361 *et seq.*) prohibits the "take" of marine mammals unless otherwise authorized or exempted by law. Among the provisions that allow for lawful take of marine mammals, sections 101(a)(5)(A) and (D) of the MMPA direct 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 if, after notice and opportunity for public comment, we find that the taking will have a negligible impact on the affected species or stock(s) and will not have an unmitigable adverse impact on the availability of the species or stock(s) for subsistence uses (where relevant). NMFS also must set forth the permissible methods of taking; other means of effecting the least practicable adverse impact on the species or stock and its habitat (mitigation); and requirements pertaining to the monitoring and reporting of such taking. NMFS Office of Protected Resources leads the process for the agency.

Issuance of an incidental take authorization (Authorization) under section 101(a)(5)(A) or 101(a)(5)(D) of the MMPA requires three sets of information collection: (1) A complete application for an Authorization, as set forth in our implementing regulations at 50 CFR 216.104, which provides the information necessary for us to make the necessary statutory determinations, including estimates of take and an assessment of impacts on the affected species and stocks; (2) information relating to required monitoring; and (3) information related to required reporting. These collections of information enable us to: (1) Evaluate the proposed activity's impact on marine mammals; (2) arrive at the appropriate determinations required by the MMPA and other applicable laws prior to issuing the authorization; and (3) monitor impacts of activities for which we have issued Authorizations to determine if our predictions regarding impacts on marine mammals remain valid.

We do not propose any changes to the information collection beyond expecting an increased number of respondents and responses due to increases in the number of requests for incidental take authorizations and requests for Letters



of Authorization from a recent GOM rule.

**Affected Public:** Business or other for-profit organizations; Not-for-profit institutions; State, Local, or Tribal government; Federal government.

**Frequency:** One application for every LOA or IHA, draft and final annual and comprehensive reports.

**Respondent's Obligation:** Mandatory.

**Legal Authority:** Marine Mammal Protection Act of 1972 (MMPA, 16 U.S.C. 1361 *et seq.*).

This information collection request may be viewed at [www.reginfo.gov](http://www.reginfo.gov). Follow the instructions to view the Department of Commerce collections currently under review by OMB.

Written comments and recommendations for the proposed information collection should be submitted within 30 days of the publication of this notice on the following website [www.reginfo.gov/public/do/PRAMain](http://www.reginfo.gov/public/do/PRAMain). Find this particular information collection by selecting "Currently under 30-day Review—Open for Public Comments" or by using the search function and entering either the title of the collection or the OMB Control Number 0648–0151.

**Sheleen Dumas,**

*Department PRA Clearance Officer, Office of the Chief Information Officer, Commerce Department.*

[FR Doc. 2021–11953 Filed 6–7–21; 8:45 am]

**BILLING CODE 3510–22–P**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request; Documentation of Fish Harvest

**AGENCY:** NOAA National Marine Fisheries Service (NMFS), Commerce.

**ACTION:** Notice of information collection, request for comment.

**SUMMARY:** The Department of Commerce, in accordance with the Paperwork Reduction Act of 1995 (PRA), invites the general public and other Federal agencies to comment on proposed and continuing information collections, which helps us assess the impact of our information collection requirements and minimize the public's reporting burden. The purpose of this notice is to allow for 60 days of public comment preceding submission of the collection to the Office of Management and Budget (OMB) for review.

**DATES:** To ensure consideration, comments regarding this proposed information collection must be received by August 9, 2021.

**ADDRESSES:** Interested persons are invited to submit written comments to Adrienne Thomas, NOAA PRA Officer, at [adrienne.thomas@noaa.gov](mailto:adrienne.thomas@noaa.gov). Please reference OMB Control Number 0648–0551 in the subject line of your comments. All comments received are part of the public record and will generally be posted on [www.regulations.gov](http://www.regulations.gov) without change. Do not submit confidential business information or otherwise sensitive or protected information.

#### FOR FURTHER INFORMATION CONTACT:

Requests for additional information or specific questions related to collection activities should be directed to Adam Bailey, National Marine Fisheries Service, Southeast Regional Office, Sustainable Fisheries Division, 263 13th Ave. South, St. Petersburg, FL 33701, telephone: 727–824–5305, email: [adam.bailey@noaa.gov](mailto:adam.bailey@noaa.gov).

#### SUPPLEMENTARY INFORMATION:

##### I. Abstract

The NMFS Southeast Regional Office proposes to extend without revision the information collection currently approved under OMB Control Number 0648–0365.

The NMFS Southeast Regional Office manages commercial fishing in Federal waters of the South Atlantic under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), 16 U.S.C. 1801 *et seq.*

Federally permitted seafood dealers who process or sell snapper-grouper species during seasonal fishery closures in the South Atlantic for those applicable species must maintain documentation, as specified in 50 CFR part 300 subpart K and 50 CFR 622.192(i), that such fish were harvested from areas other than state or Federal waters in the South Atlantic. The applicable snapper-grouper species are greater amberjack, gag, black grouper, red grouper, scamp, red hind, rock hind, yellowmouth grouper, yellowfin grouper, graysby, and coney. The documentation includes information on the vessel that harvested the fish, and where and when the fish were offloaded. NMFS requires the information for the enforcement of fishery regulations at 50 CFR 622, subpart I.

##### II. Method of Collection

The information is in the form of a paper affidavit, which a respondent creates and retains.

##### III. Data

**OMB Control Number:** 0648–0365.

**Form Number(s):** None.

**Type of Review:** Regular submission—extension of a current information collection.

**Affected Public:** Businesses or other for-profit organizations.

**Estimated Number of Respondents:** 414

**Estimated Time per Response:** 10 minutes.

**Estimated Total Annual Burden Hours:** 69.

**Estimated Total Annual Cost to Public:** \$0 in recordkeeping and reporting costs.

**Respondent's Obligation:** Mandatory.

**Legal Authority:** Magnuson-Stevens Act, 16 U.S.C. 1801 *et seq.*

##### IV. Request for Comments

We are soliciting public comments to: (a) Evaluate whether the proposed information collection is necessary for the proper functions of the Department, including whether the information will have practical utility; (b) Evaluate the accuracy of our estimate of the time and cost burden for this proposed collection, including the validity of the methodology and assumptions used; (c) Evaluate ways to enhance the quality, utility, and clarity of the information to be collected; and (d) Minimize the reporting burden on those who are to respond, including the use of automated collection techniques or other forms of information technology.

Comments that you submit in response to this notice are a matter of public record. We will include or summarize each comment in our request to OMB to approve this ICR. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you may ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

**Sheleen Dumas,**

*Department PRA Clearance Officer, Office of the Chief Information Officer, Commerce Department.*

[FR Doc. 2021–11999 Filed 6–7–21; 8:45 am]

**BILLING CODE 3510–22–P**

**DEPARTMENT OF COMMERCE****United States Patent and Trademark Office****Agency Information Collection Activities; Submission to the Office of Management and Budget (OMB) for Review and Approval; Comment Request; Fastener Quality Act Insignia Recordal Process**

The United States Patent and Trademark Office (USPTO) will submit the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995, on or after the date of publication of this notice. The USPTO invites comment on this information collection renewal, which helps the USPTO assess the impact of its information collection requirements and minimize the public's reporting burden. Public comments were previously requested via the **Federal Register** on January 15, 2021 during a 60-day comment period. This notice allows for an additional 30 days for public comments.

*Agency:* United States Patent and Trademark Office, Department of Commerce.

*Title:* Fastener Quality Act Insignia Recordal Process.

*OMB Control Number:* 0651-0028.

*Form Number:*

- PTO-1611 (Application for Recordal of Insignia or Renewal/Reactivation of Recordal Under the Fastener Quality Act)

*Type of Review:* Extension and revision of a currently approved information collection.

*Number of Respondents:* 96 respondents per year.

*Estimated Time per Response:* The USPTO estimates that it will take the public approximately 30 minutes (0.5 hours) to gather the necessary information, prepare the form, and submit the request for recordal or renewal of a fastener insignia to the USPTO.

*Estimated Total Annual Respondent Burden Hours:* 48 hours.

*Estimated Total Annual Non-Hour Cost Burden:* \$2,136.

*Needs and Uses:* Under Section 5 of the Fastener Quality Act (FQA) of 1999, (15 U.S.C. 5401 *et seq.*), certain industrial fasteners must bear an insignia identifying the manufacturer. It is also mandatory for manufacturers of fasteners covered by the FQA to submit an application to the USPTO for recordal of the insignia on the Fastener Insignia Register. The purpose of

requiring both the insignia and the recordation is to ensure that certain fasteners can be traced to their manufacturers and to protect against the sale of mismarked, misrepresented, or counterfeit fasteners. The procedures for the recordal of fastener insignia under the FQA are set forth in 15 CFR 280.300 *et seq.*

This information collection covers data gathered by the FQA applications for Recordal of Insignia and the applications for Renewal/Reactivation of Recordal. The USPTO uses the information in this information collection to record or renew insignias under the FQA and to maintain the Fastener Insignia Register, which is open to public inspection. The public may download the Fastener Insignia Register from the USPTO website at <https://www.uspto.gov/trademark/laws-regulations/fastener-quality-act-fqa/fastener-quality-act-fqa>.

*Affected Public:* Private sector.

*Frequency:* On occasion.

*Respondent's Obligation:* Required to obtain or retain benefits.

This information collection request may be viewed at [www.reginfo.gov](http://www.reginfo.gov). Follow the instructions to view Department of Commerce, USPTO information collections currently under review by OMB.

Written comments and recommendations for this information collection should be submitted within 30 days of the publication of this notice on the following website [www.reginfo.gov/public/do/PRAMain](http://www.reginfo.gov/public/do/PRAMain). Find this particular information collection by selecting "Currently under 30-day Review—Open for Public Comments" or by using the search function and entering either the title of the information collection or the OMB Control Number 0651-0028.

Further information can be obtained by:

- *Email:* [InformationCollection@uspto.gov](mailto:InformationCollection@uspto.gov). Include "0651-0028 information request" in the subject line of the message.

- *Mail:* Kimberly Hardy, Office of the Chief Administrative Officer, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313-1450.

**Kimberly Hardy,**

*Information Collections Officer, Office of the Chief Administrative Officer, United States Patent and Trademark Office.*

[FR Doc. 2021-11933 Filed 6-7-21; 8:45 am]

**BILLING CODE 3510-16-P**

**DEPARTMENT OF EDUCATION**

[Docket ID ED-2021-OCR-0068]

**Request for Information Regarding the Nondiscriminatory Administration of School Discipline**

**AGENCY:** Office for Civil Rights (OCR), U.S. Department of Education.

**ACTION:** Request for information.

**SUMMARY:** This notice is a request for information in the form of written comments that include information, research, and suggestions regarding the administration of school discipline in schools serving students in pre-K through grade 12. OCR solicits these comments to inform determinations about what policy guidance, technical assistance, or other resources would assist schools that serve students in pre-K through grade 12 with improving school climate and safety, consistent with the civil rights laws that OCR enforces, to ensure equal access to education programs and activities. OCR has promulgated regulations to implement civil rights laws and periodically provides policy guidance and technical assistance to clarify these statutory and regulatory requirements. Information received through this request may be used to assist OCR in preparing further guidance, technical assistance, and other resources.

**DATES:** We must receive your comments on or before July 23, 2021.

**ADDRESSES:** Written comments may be submitted as indicated below:

- *Federal eRulemaking Portal:* Using the Docket ID number above, please go to [www.regulations.gov](http://www.regulations.gov) to submit your comments electronically. Information on using [Regulations.gov](http://www.regulations.gov), including instructions for accessing agency documents, submitting comments, and viewing the docket, is available on the site.

- *Mail:* If you do not have internet access or electronic submission is not possible, you may mail written comments to the Office for Civil Rights, U.S. Department of Education, Potomac Center Plaza (PCP), 550 12th Street SW, Washington, DC 20024. Mailed comments must be postmarked by July 23, 2021, to be accepted. Comments submitted by email or fax will *not* be accepted.

*Privacy Note:* The Department's policy is to make all electronic comments received from members of the public available for public viewing in their entirety on the Federal eRulemaking Portal at [www.regulations.gov](http://www.regulations.gov). Therefore, commenters should be careful to

include in their comments only information that they wish to make publicly available.

**FOR FURTHER INFORMATION CONTACT:** Alejandro Reyes, Director, Program Legal Group, Office for Civil Rights, Potomac Center Plaza (PCP), Room 6125, 550 12th Street SW, Washington, DC 20024. Telephone: (202) 245-7272. Email: [Alejandro.Reyes@ed.gov](mailto:Alejandro.Reyes@ed.gov).

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

If you have difficulty understanding English, you may request language assistance services for Department information that is available to the public. These language assistance services are available free of charge. If you need more information about interpretation or translation services, please call 1-800-USA-LEARN (1-800-872-5327) (TTY: 1-800-877-8339).

#### **SUPPLEMENTARY INFORMATION:**

### **I. Background**

#### *A. OCR's Role in Enforcing Federal Civil Rights Laws*

OCR enforces Federal civil rights laws and their implementing regulations, including those that prohibit discrimination based on race, color, or national origin (Title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000d *et seq.*, 34 CFR part 100) (Title VI); sex (Title IX of the Education Amendments of 1972, 20 U.S.C. 1681 *et seq.*, 34 CFR part 106); disability (Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. 794, 34 CFR part 104, Title II of the Americans with Disabilities Act of 1990, 42 U.S.C. 12131 *et seq.*, 28 CFR part 35);<sup>1</sup> and age (Age Discrimination Act of 1975, 42 U.S.C. 6101 *et seq.*, 34 CFR part 110). These laws prohibit discrimination in the programs or activities of schools and other entities that receive Federal financial assistance from the Department (recipients), or, in the case of Title II, are public entities, regardless of whether they receive Federal financial assistance.

These laws apply to a wide range of entities, including all State educational agencies (SEAs); approximately 17,600 local educational agencies (LEAs); over 5,000 postsecondary institutions; 80 State vocational rehabilitation agencies and their subrecipients; and other institutions that receive Departmental financial assistance, such as libraries, museums, and correctional institutions.

<sup>1</sup> OCR shares, with DOJ, responsibility for compliance with Title II with regard to educational institutions. 28 CFR subpart 35.190(b)(2); 28 CFR subparts 35.172-35.174.

OCR fulfills its mission to protect civil rights in many ways, including by (1) responding to civil rights complaints filed by members of the public; (2) proactively conducting compliance reviews and directed investigations to enforce Federal civil rights laws; (3) monitoring recipients' adherence to resolution agreements reached with OCR; (4) issuing policy guidance to increase recipients' understanding of their civil rights obligations and students' and families' awareness of students' civil rights; (5) providing technical assistance and other information to recipients and the public; and (6) administering and disseminating the Civil Rights Data Collection (CRDC).

OCR develops policy guidance based on legal developments, its enforcement work, and civil rights data trends. In addition, OCR develops policy guidance, technical assistance, and other informational materials in response to compliance concerns raised by public inquiries, requests for technical assistance, and engagement with a wide array of education and civil rights stakeholders. OCR's policy guidance and technical assistance are designed to ensure that every student has equal access to education programs and activities free from discrimination. These guidance and technical assistance documents are available on OCR's website at [www.ed.gov/ocr/frontpage/faq/readingroom.html](http://www.ed.gov/ocr/frontpage/faq/readingroom.html).

#### *B. OCR and Other Federal Agency Policy Guidance on the Nondiscriminatory Administration of School Discipline*

As described below, OCR and other Federal agencies have taken multiple approaches to analyze and address longstanding issues related to the nondiscriminatory administration of school discipline and the creation of positive school climates.

*OCR and the U.S. Department of Justice Civil Rights Division (CRT):* In 2014, following input from a wide array of stakeholders, OCR and CRT jointly released a Dear Colleague letter on the nondiscriminatory administration of school discipline and related materials ("guidance") to identify, avoid, and remedy discrimination based on race, color, or national origin in the administration of school discipline and create a positive school climate.<sup>2</sup> The

<sup>2</sup> Dear Colleague Letter on Nondiscriminatory Administration of School Discipline (January 8, 2014) (rescinded) available at <https://www2.ed.gov/about/offices/list/ocr/letters/colleague-201401-title-vi.html>. See also, ED-DOJ School Discipline Guidance package website (archived) available at <https://www2.ed.gov/policy/gen/guid/school-discipline/fedefforts.html#guidance>.

guidance emphasized the requirements of Titles IV and VI of the Civil Rights Act of 1964, which protect students from race, color, or national origin discrimination, and discussed both racial and national origin discrimination due to different treatment of, and unjustified disparate impacts on, students of color. The guidance also noted how the growing and disproportionate use of exclusionary discipline policies, such as in-school and out-of-school suspensions, caused students to lose instructional time and created the potential for significant, negative educational and other long-term impacts that contributed to the school-to-prison pipeline.

In 2018, OCR and CRT issued a Dear Colleague letter that rescinded the 2014 guidance.<sup>3</sup> This rescission followed a report and recommendations issued by the 2018 Federal Commission on School Safety.<sup>4</sup> In 2018, OCR also issued a question-and-answer document with information on how OCR assesses a school's compliance with Title VI with respect to the administration of school discipline.<sup>5</sup>

*U.S. Government Accountability Office (GAO) and the U.S. Commission on Civil Rights (USCCR):* GAO released a report in March 2018 in which it analyzed CRDC discipline data from the 2013-14 school year. This report found that Black students, boys, and students with disabilities were disproportionately disciplined "regardless of the type of disciplinary action, level of school poverty, or type of public school attended."<sup>6</sup>

Likewise, in its 2019 report—*BEYOND SUSPENSIONS: Examining School Discipline Policies and Connections to the School-to-Prison Pipeline for Students of Color with Disabilities*—the USCCR found that: Students of color as a whole, as well as by individual racial group, do not commit more disciplinable offenses than their white peers—but black students, Latino students, and Native American students in the aggregate receive substantially more school discipline than their white peers and

<sup>3</sup> Dear Colleague letter (December 21, 2018) available at <https://www2.ed.gov/about/offices/list/ocr/letters/colleague-201812.pdf>.

<sup>4</sup> Federal Commission on School Safety listening session transcripts, report and recommendations are available at <https://www.ed.gov/school-safety>.

<sup>5</sup> OCR's Questions and Answers on Racial Discrimination and School Discipline (December 21, 2018) is available at <https://www2.ed.gov/about/offices/list/ocr/docs/qa-title-vi-201812.pdf>.

<sup>6</sup> U.S. Government Accountability Office, *K-12 Education: Discipline Disparities for Black Students, Boys, and Students with Disabilities*, 12 (March 2018) available at <https://www.gao.gov/products/gao-18-258>.

receive harsher and longer punishments than their white peers receive for like offenses.<sup>7</sup>

*OCR's Civil Rights Data Collection (CRDC)*: OCR's most recent analysis of discipline data from the 2017–18 CRDC shows that these racial disparities persist. In particular, the data show that students of color are disproportionately subjected to disciplinary actions in contrast to their White peers.<sup>8</sup> With respect to referrals to law enforcement, which includes school-based arrests and the issuance of citations and tickets, CRDC data revealed that in 2017–18, Black students represented only 15 percent of the total student enrollment but accounted for 29 percent of all students referred to law enforcement—almost twice their share of overall student enrollment. White students, on the other hand, accounted for 47 percent of total student enrollment in 2017–18, but only 38 percent of referrals to law enforcement.

These disparities in referrals to law enforcement are apparent in the treatment of students with disabilities as well. Students served under the Individuals with Disabilities Education Act (IDEA)<sup>9</sup> represented 13 percent of total student enrollment but 27 percent of students referred to law enforcement in 2017–18. During that school year, Black students with disabilities represented 18 percent of all students provided services under IDEA but 32 percent of those who were referred to law enforcement.

With respect to other exclusionary discipline practices, CRDC data from 2017–18 show that Black students represented 38 percent of students who received one or more out-of-school suspensions—over two times their share of overall student enrollment (15 percent). In addition, Black students accounted for 36 percent of all expulsions and 33 percent of students who were expelled without educational

services.<sup>10</sup> By contrast, White students accounted for 47 percent of overall student enrollment but received comparatively fewer expulsions: 36 percent of all expulsions and 41 percent of students who were expelled without educational services. American Indian or Alaska Native students received expulsions at rates (1.1 percent and 1.8 percent, respectively) that were slightly higher than their share of total student enrollment (1.0 percent).

Disparities worsen when you examine the intersection between race and sex. According to the 2017–18 CRDC data, Black girls were the only group across all races or ethnicities for girls where a disparity in school suspensions was observed. Black girls accounted for 11.1 percent of in-school suspensions and 13.3 percent of out-of-school suspensions, which is almost two times their share of total student enrollment of 7.4 percent. Black boys accounted for 7.7 percent of total student enrollment and received both in-school suspensions and out-of-school suspensions at rates (20.1 percent and 24.9 percent, respectively) almost three times their share of total student enrollment—the largest disparity across all race/ethnicity and sex groupings.

Students with disabilities were also overrepresented in exclusionary disciplinary actions as shown by CRDC data from 2017–18. Despite representing only 13 percent of the student population, they represented 25 percent of all students who received one or more out-of-school suspensions and 15 percent of those who were expelled without educational services in 2017–18. Black students with disabilities represented 26 percent of expulsions without educational services although they accounted for only 18 percent of all students provided services under IDEA in 2017–18.

### *C. Commitment to Equity and This Request for Information*

On January 20, 2021, President Joe Biden issued an Executive Order On Advancing Racial Equity and Support for Underserved Communities Through the Federal Government to affirm the Administration's policy of and commitment to pursuing “a

comprehensive approach to advancing equity for all, including people of color and others who have been historically underserved, marginalized, and adversely affected by persistent poverty and inequality.”<sup>11</sup>

Consistent with this approach, OCR is issuing this notice to solicit information on school climate and discipline practices in our nation's schools serving students in pre-K through grade 12, and how best to support and build schools' capacity to promote positive, inclusive, safe, and supportive school climates in a nondiscriminatory manner.

## **II. Solicitation of Comments**

### *A. Information Solicited*

The Department requests information from students, families, educators, school leaders, SEAs, LEAs, community-based organizations, civil rights organizations, and other stakeholders regarding the ongoing discipline challenges in our nation's schools. OCR is also interested in learning about discipline issues arising during this unprecedented time of school closures, virtual learning, hybrid learning, and reopening schools during the COVID–19 pandemic, as well as promising practices for addressing student discipline and creating positive school climates in these unique learning environments.

In particular, OCR is soliciting responses to the questions and requests below in the form of written comments to inform determinations about what policy guidance, technical assistance, or other resources would aid schools serving students in pre-K through grade 12 in providing positive, inclusive, safe, and supportive school climates and ensuring the nondiscriminatory administration of school discipline under the laws OCR enforces.

### *B. Instructions for Responding to This Request for Information*

When responding to this request for information, please be as specific as possible in your comments. If you are aware of any supportive research (qualitative or quantitative) or promising school- or community-based programs, please include citations, websites, or other information that might enable OCR to follow up on the information you have shared.

OCR recognizes students may experience multiple forms of

<sup>7</sup> U.S. Commission on Civil Rights, *BEYOND SUSPENSIONS: Examining School Discipline Policies and Connections to the School-to-Prison Pipeline for Students of Color with Disabilities*, 161 (July 23, 2019), <https://www.usccr.gov/pubs/2019/07-23-Beyond-Suspensions.pdf>.

<sup>8</sup> In 2017–18, 50.9 million students were enrolled in pre-K through grade 12 in public schools across the country. The data and all percentages are from the 2017–18 CRDC released in October 2020 and updated in May 2021. Downloadable data files of information from the CRDC are available at <https://www2.ed.gov/about/offices/list/ocr/docs/crdc-2017-18.html>. The definitions used by the CRDC can be found at <https://crdc.communities.ed.gov/#communities/pdc/documents/17270>.

<sup>9</sup> The Office of Special Education Programs (OSEP) in the Department's Office of Special Education and Rehabilitative Services (OSERS) administers the IDEA. For information about the IDEA, please see [osep.index.html](https://www.ed.gov/osers/osep/index.html) and [www.ed.gov/osers/osep/index.html](https://www.ed.gov/osers/osep/index.html).

<sup>10</sup> The 2017–18 CRDC collected expulsions data for students who were expelled with education services, students who were expelled without educational services, and students who were expelled under zero-tolerance policies. A zero-tolerance policy is a policy that results in mandatory expulsion from a student's regular school for the remainder of the school year or longer if the student commits one or more specified offenses. Examples of specified offenses include those involving guns or other weapons, violence, or similar factors, or combinations of these factors.

<sup>11</sup> Executive Order 13985 On Advancing Racial Equity and Support for Underserved Communities Through the Federal Government (January 20, 2021), available at <https://www.federalregister.gov/documents/2021/01/25/2021-01753/advancing-racial-equity-and-support-for-underserved-communities-through-the-federal-government>.

discrimination at once and encourages commenters to identify and address individual and intersectional discrimination as appropriate. This might include, for example, comments on disproportionate discipline of students of a certain race, color, or national origin who are also male, female, LGBTQI+, and/or who are also students with disabilities.

If you are commenting on materials that OCR has issued in the past, please indicate if you believe OCR should consider affirming, changing, or rejecting such materials in future guidance, and the reasons for your recommendations.

Please *do not* submit comments focused on OCR's handling of complaints filed with OCR as this topic is beyond the scope of this request for information and will not be considered.

### C. Request for Information

Please address one or more of the following questions or requests:

1. What are your views on the usefulness of current and previous guidance OCR and CRT have issued on school discipline? We would appreciate your comments on the guidance documents described above, including the 2014 guidance, the 2018 Dear Colleague letter, and the 2018 Questions & Answers on Racial Discrimination and School Discipline guidance.

2. What ongoing or emerging school discipline policies or practices are relevant to you or the communities you serve, including any that you believe raise concerns about potentially discriminatory implementation or effects on students' access to educational opportunities based on race, color, national origin, sex, or disability?

3. What promising practices for the administration of nondiscriminatory school discipline or creating positive school climates have you identified?

4. What are your views on this non-exhaustive list of disciplinary policies, practices, and other issues below?

(a) Discipline of students in pre-K through third grade, including in-school and out-of-school suspensions.

(b) Use of exclusionary disciplinary penalties, such as suspensions or expulsions, for minor, non-violent, or subjectively defined types of infractions, such as defiance or disrespect of authority.

(c) Discipline issues relating to dress and grooming codes (including restrictions on hairstyles).

(d) Corporal punishment.

(e) Inappropriate use of seclusion and restraint for disciplinary purposes.

(f) Referrals to and the resulting interactions with school police, school

resource officers, or other law enforcement.

(g) Referrals to alternative schools and programs.

(h) Threat assessment practices.

(i) Students bringing weapons or using them at school.

(j) Use of surveillance technologies in a discriminatory manner.

(k) School policies or practices related to teacher and staff training related to discipline, the role teachers play in referrals of students for discipline, and the role of implicit bias in disciplinary decisions.

(l) Discipline related to attendance and time management.

(m) Discipline of victims of race, color, or national origin harassment, sex harassment, or disability harassment for misconduct that arises as a result of such harassment.

(n) Zero tolerance or strict, three-strike policies.

(o) Reintegration of students who return to school after a long-term out-of-school suspension or expulsion.

(p) Discipline issues relating to virtual learning.

(q) Discipline issues relating to returning to in-person instruction.

(r) Discipline issues relating to activities off school campus or in virtual school settings, such as bullying through social media usage.

5. What types of guidance and technical assistance can OCR provide to best help SEAs and LEAs create positive, inclusive, safe, and supportive school climates and identify, address, and remedy discriminatory student discipline policies and practices (for example, Dear Colleague letters, Frequently Asked Questions documents, fact sheets, tool kits, videos on the nondiscriminatory administration of school discipline or positive school climate, and guidance on returning students to in-person instruction)?

6. What promising practices that have reduced the use of discipline or the disparities in the use of discipline between different groups of students (including promising evidence-based programs and success stories from particular school districts) should OCR consider highlighting in any future guidance or resource materials?

7. How do school discipline policies impact (a) students' opportunity to learn; (b) academic achievement; (c) students' mental health; (d) drop out and graduation rates; (e) school climate and safety; (f) access to instructional time; (g) teacher retention and satisfaction; (h) the rates at which staff refer students for formal discipline; (i) student participation in STEM courses, honors and advanced placement

courses, arts and theater, and extra-curricular programming; (j) impact of discipline records on access to scholarships or on enrollment in college; (k) student participation in ceremonies (for example, graduation ceremonies and National Honor Society ceremonies); and (l) life outcomes (for example, earnings, reliance on public support, income, employment opportunities, and housing)?

8. To what extent can hiring and professional development practices be designed and aligned to ensure that teachers and staff are adequately prepared to manage classrooms and work with students in a fair and equitable manner?

9. Describe any data collection, analysis, or record-keeping practices that you believe are helpful in identifying and addressing disparities in discipline. Conversely, describe any barriers or limitations in these areas, and any ideas you may have on how to overcome them.

### III. Conclusion

OCR appreciates the contributions of students, families, educators, school leaders, SEAs, LEAs, community-based organizations, civil rights organizations, and others to this request for information. We will review every comment, and, as described above, electronic comments in response to this request for information will be publicly available on the Federal eRulemaking Portal at [www.regulations.gov](http://www.regulations.gov).

Please note that OCR will not directly acknowledge or respond to comments, including comments that contain specific questions or inquiries. OCR issues a limited number of policy guidance and technical assistance documents each year. Receipt of comments in response to this request for information does not imply that OCR has decided to issue policy guidance, technical assistance, or other resources.

**Accessible Format:** On request to the program contact person listed under **FOR FURTHER INFORMATION CONTACT**, individuals with disabilities can obtain this document in an accessible format. The Department will provide the requestor with an accessible format that may include Rich Text Format (RTF) or text format (txt), a thumb drive, an MP3 file, braille, large print, audiotape, or compact disc, or other accessible format.

**Electronic Access to This Document:** The official version of this document is the document published in the **Federal Register**. You may access the official edition of the **Federal Register** and the Code of Federal Regulations at [www.govinfo.gov](http://www.govinfo.gov). At this site you can view this document, as well as all other

documents of the Department published in the **Federal Register**, in text or Portable Document Format (PDF). To use PDF, you must have Adobe Acrobat Reader, which is available free at the site.

You may also access documents of the Department published in the **Federal Register** by using the article search

feature at [www.federalregister.gov](http://www.federalregister.gov). Specifically, through the advanced search feature at this site, you can limit your search to documents published by the Department.

**Suzanne B. Goldberg,**  
*Acting Assistant Secretary for Civil Rights.*  
 [FR Doc. 2021-11990 Filed 6-7-21; 8:45 am]  
**BILLING CODE 4000-01-P**

**DEPARTMENT OF ENERGY**

**Change in Control**

Cameron LNG, LLC .....	11-145-LNG
Cameron LNG, LLC .....	11-162-LNG
Cameron LNG, LLC .....	14-204-LNG
Cameron LNG, LLC .....	15-36-LNG
Cameron LNG, LLC .....	15-67-LNG
Cameron LNG, LLC .....	15-90-LNG
Cameron LNG, LLC .....	19-62-LNG
Ecogas Mexico, S. de R.L. de C.V .....	19-45-NG
ECA Liquefaction, S. de R.L. de C.V .....	18-144-LNG
Energía Costa Azul, S. de R.L. de C.V .....	18-145-LNG
Port Arthur LNG, LLC .....	15-53-LNG
Port Arthur LNG, LLC .....	15-96-LNG
Port Arthur LNG, LLC .....	18-162-LNG
Port Arthur LNG Phase II, LLC .....	20-23-LNG
Sempra Gas & Power Marketing, LLC .....	20-43-NG
Sempra LNG International, LLC .....	19-65-LNG
Sempra LNG Marketing, LLC .....	20-52-LNG
Termoelectrica de Mexicali, S. de R.L. de C.V .....	20-145-NG
Vista Pacifico LNG, S.A.P.I de C.V .....	20-153-LNG

**AGENCY:** Office of Fossil Energy, Department of Energy.

**ACTION:** Notice of change in control.

**SUMMARY:** The Office of Fossil Energy (FE) of the Department of Energy (DOE) gives notice of receipt of a Statement of Change in Control filed jointly on April 30, 2021 (Statement) (as supplemented on May 3 and May 19, 2021) by the following entities: Cameron LNG, LLC; Ecogas Mexico, S. de R.L. de C.V.; ECA Liquefaction, S. de R.L. de C.V.; Energía Costa Azul, S. de R.L. de C.V.; Port Arthur LNG, LLC; Port Arthur LNG Phase II, LLC; Sempra Gas & Power Marketing, LLC; Sempra LNG International, LLC; Sempra LNG Marketing, LLC; Termoelectrica de Mexicali, S. de R.L. de C.V.; and Vista Pacifico LNG, S.A.P.I de C.V. (collectively, Authorization Holders) in the above-referenced dockets. The Authorization Holders are all affiliates of Sempra Energy (Sempra). The Statement, as supplemented, describes a change in the Authorization Holders' upstream ownership. The Statement was filed under the Natural Gas Act (NGA).

**DATES:** Protests, motions to intervene, or notices of intervention, as applicable, and written comments are to be filed electronically as detailed in the Public Comment Procedures section no later than 4:30 p.m., Eastern time, June 23, 2021.

**ADDRESSES:** Electronic Filing by email: [fergas@hq.doe.gov](mailto:fergas@hq.doe.gov).

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 accepting only electronic submissions at this time. If a commenter finds that this change poses an undue hardship, please contact Office of Fossil Energy staff at (202) 586-2627 or (202) 586-4749 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.

**FOR FURTHER INFORMATION CONTACT:** Amy Sweeney or Jennifer Wade, U.S. Department of Energy (FE-34), Office of Regulation, Analysis, and Engagement, Office of Fossil Energy, Forrestal Building, Room 3E-042, 1000 Independence Avenue SW, Washington, DC 20585, (202) 586-2627; (202) 586-4749, [amy.sweeney@hq.doe.gov](mailto:amy.sweeney@hq.doe.gov) or [jennifer.wade@hq.doe.gov](mailto:jennifer.wade@hq.doe.gov)

Cassandra Bernstein, U.S. Department of Energy (GC-76), Office of the Assistant General Counsel for Electricity and Fossil Energy, Forrestal Building, 1000

Independence Avenue SW, Washington, DC 20585, (202) 586-9793, [cassandra.bernstein@hq.doe.gov](mailto:cassandra.bernstein@hq.doe.gov)

**SUPPLEMENTARY INFORMATION:**

**Summary of Change in Control**

The Authorization Holders state that the upstream ownership change described in the Statement is the result of the acquisition (Transaction) by KKR Pinnacle Aggregator L.P. (KKR Pinnacle), a subsidiary of KKR & Co. Inc. (together with its subsidiaries, KKR), of a non-controlling 20% interest in the equity of the reorganized Sempra Global Holdings, LP (Sempra Global), a subsidiary of Sempra.

According to the Authorization Holders, the Transaction is part of a series of integrated transactions involving Sempra's portfolio of Northern American energy infrastructure projects. Prior to the closing of the Transaction, Sempra will conduct an internal reorganization to consolidate the assets of its liquefied natural gas (LNG) business and its ownership in Infraestructura Energética Nova, S.A.B. de C.V. (IEnova) under Sempra Global, which will be renamed Sempra Infrastructure Partners (SIP). The Authorization Holders state that, as part of the integrated transactions, on April 26, 2021, Sempra launched a stock-for-stock exchange offer with the intent of acquiring the outstanding

shares in IEnova that it does not currently own.

Following the reorganization and consummation of the Transaction, KKR Pinnacle will own a 20% non-controlling equity interest in SIP. Post-consummation, Sempra will maintain control of SIP as the 80% owner, with KKR Pinnacle having certain minority protections.

Additional details can be found in the Statement and related supplements, posted on the DOE/FE website at: <https://www.energy.gov/sites/default/files/2021-05/Sempra%20CIC%20Statement%20%284.30.2021%29.pdf>; <https://www.energy.gov/sites/default/files/2021-05/Sempra%20Supplement%20to%20CIC%20Statement%20%285.3.2021%29%20%28002%29.pdf>; <https://www.energy.gov/sites/default/files/2021-05/Supplemental%20Service%20re%20CIC%20Statement%20%285.19.2021%29.pdf>.

#### DOE/FE Evaluation

DOE/FE will review the Statement, as supplemented, in accordance with its Procedures for Changes in Control Affecting Applications and Authorizations to Import or Export Natural Gas (CIC Procedures).<sup>1</sup> Consistent with the CIC Procedures, this notice addresses the Authorization Holders' various existing authorizations to export LNG to non-free trade agreement (non-FTA) countries, as identified in the Statement.<sup>2</sup> If no interested person protests the change in control and DOE takes no action on its own motion, the proposed change in control will be deemed granted 30 days after publication in the **Federal Register**. If one or more protests are submitted, DOE will review any motions to intervene, protests, and answers, and will issue a determination as to whether the proposed change in control has been demonstrated to render the underlying authorizations inconsistent with the public interest.

#### Public Comment Procedures

Interested persons will be provided 15 days from the date of publication of this notice in the **Federal Register** to move to intervene, protest, and answer the Authorization Holders' Statement, as

supplemented.<sup>3</sup> Protests, motions to intervene, notices of intervention, and written comments are invited in response to this notice only as to the change in control described in the Statement, as supplemented. All protests, comments, motions to intervene, or notices of intervention must meet the requirements specified by DOE's regulations in 10 CFR part 590.

As noted, DOE is only accepting electronic submissions at this time. Please email the filing to [fergas@hq.doe.gov](mailto:fergas@hq.doe.gov). All filings must include a reference to "FE Docket Nos. 11-145-LNG, *et al.*" in the title line, or "Cameron LNG, LLC, *et al.* Change in Control" in the title line. *Please Note:* Please include all related documents and attachments (e.g., exhibits) in the original email correspondence. Please do not include any active hyperlinks or password protection in any of the documents or attachments related to the filing. All electronic filings submitted to DOE must follow these guidelines to ensure that all documents are filed in a timely manner. Any hardcopy filing submitted greater in length than 50 pages must also include, at the time of the filing, a digital copy on disk of the entire submission.

The Authorization Holders' Statement, the supplements thereto, and any filed protests, motions to intervene, notices of intervention, and comments will be available electronically by going to the following DOE/FE Web address: <https://www.energy.gov/fe/services/natural-gas-regulation>.

#### Signing Authority

This document of the Department of Energy was signed on June 2, 2021, by Amy R. Sweeney, Director, Office of Regulation, Analysis, and Engagement, Office of Oil and Natural Gas, 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**.

<sup>3</sup> Intervention, if granted, would constitute intervention only in the change in control portion of these proceedings, as described herein.

Signed in Washington, DC, on June 2, 2021.

**Treena V. Garrett,**

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

[FR Doc. 2021-11909 Filed 6-7-21; 8:45 am]

BILLING CODE 6450-01-P

## DEPARTMENT OF ENERGY

### Notice of Request for Information (RFI) on Hydrogen Program's Demonstration Opportunities Aligned With Hydrogen Energy Earthshot Initiative

**AGENCY:** Office of Energy Efficiency and Renewable Energy, Office of Fossil Energy, Office of Nuclear Energy, Office of Electricity, Office of Science, Department of Energy.

**ACTION:** Request for information.

**SUMMARY:** The U.S. Department of Energy (DOE) invites public comment on its Request for Information (RFI) number DE-FOA-0002529 regarding the DOE's Hydrogen Energy Earthshot initiative to enable low cost, clean hydrogen at scale. Energy Earthshots being launched by DOE look beyond incremental advances and aim, instead, at the game-changing breakthroughs that will secure American leadership in enabling net-zero carbon technologies and address the climate crisis through the build-up of a clean and equitable energy future for all. The information being sought is intended to assist DOE's Hydrogen Program in further defining the scope and priorities of its initiatives to accelerate the production, storage, delivery, and end use of clean, affordable hydrogen in the United States. Specifically, this RFI seeks input on viable hydrogen demonstration and deployment projects, as well as science and innovation, that enable clean and affordable hydrogen production, infrastructure and end use to reduce emissions, create jobs, provide benefits to disadvantaged communities, and enable a net-zero carbon emissions economy by 2050. This is solely a request for information and not a Funding Opportunity Announcement (FOA). DOE is not accepting applications.

**DATES:** Responses to the RFI must be received by July 7, 2021 by 5:00 p.m.

**ADDRESSES:** Interested parties are to submit comments electronically to [HFTORFI@ee.doe.gov](mailto:HFTORFI@ee.doe.gov). Include "HFTO RFI" in the subject line of the email. Email attachments can be provided as a Microsoft Word (.docx) file or an Adobe PDF (.pdf) file, prepared in accordance with the detailed instructions in the

<sup>1</sup> 79 FR 65541 (Nov. 5, 2014).

<sup>2</sup> The Authorization Holders' Statement also applies to: (1) Their various existing authorizations to export LNG to FTA countries, and (2) their various pending applications to export LNG to FTA and/or non-FTA countries, both as identified in the Statement. DOE/FE will respond to those portions of the Statement separately pursuant to the CIC Procedures, 79 FR 65542.



RFI. Documents submitted electronically should clearly indicate which topic areas and specific questions are being addressed, and should be limited to no more than 25 MB in size. The complete RFI [DE-FOA-0002529] document is located at <https://eere-exchange.energy.gov/>.

**FOR FURTHER INFORMATION CONTACT:**

Questions may be addressed to [HFTORFI@ee.doe.gov](mailto:HFTORFI@ee.doe.gov) or to Michael Hahn at 240-562-1551. Further instruction can be found in the RFI document posted on EERE Exchange at <https://eere-exchange.energy.gov/>.

**SUPPLEMENTARY INFORMATION:** There are extensive opportunities to produce clean hydrogen from diverse domestic resources, and both the DOE Hydrogen Program and industry have identified opportunities for using that clean hydrogen across multiple applications and sectors. The Hydrogen Program is interested in hearing from stakeholders, which of these areas would provide potential locations for *near-term, large-scale, clean hydrogen demonstration projects*, where near-term refers to deployment in the next few years. The purpose of this RFI is to solicit feedback from industry, investors, developers, academia, research laboratories, government agencies, and other stakeholders on potential hydrogen demonstration projects and their associated locations, including potentially ideal locations in the United States. Specifically, DOE is requesting input on the following categories:

- Regional Hydrogen Production, Resources, and Infrastructure
- End Users for Hydrogen in the Region, Cost, and Value Propositions
- Greenhouse Gas and Pollutant Emissions Reduction Potential
- Diversity, Equity, Inclusion (DEI), Jobs, and Environmental Justice
- Science and Innovation Needs and Challenges

• Additional Information

Specific questions can be found in the RFI. The RFI is available at: <https://eere-exchange.energy.gov/>.

**Confidential Business Information:** Pursuant to 10 CFR 1004.11, any person submitting information that he or she believes to be confidential and exempt by law from public disclosure should submit via email 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. DOE will make its own determination about the confidential status of the information and treat it according to its determination.

**Signing Authority:** This document of the Department of Energy was signed on May 24, 2021, by Dr. Sunita Satyapal, Director, Hydrogen and Fuel Cells Technology Office, Office of 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.

**Treana V. Garrett,**  
Federal Register Liaison Officer, U.S.  
Department of Energy.

[FR Doc. 2021-11604 Filed 6-7-21; 8:45 am]

**BILLING CODE 6450-01-P**

**DEPARTMENT OF ENERGY**

**Federal Energy Regulatory Commission**

[Docket No. CD21-6-000]

**North Loup River Public Power and Irrigation District; Notice of Preliminary Determination of a Qualifying Conduit Hydropower Facility and Soliciting Comments and Motions To Intervene**

On May 21, 2021, North Loup River Public Power and Irrigation District filed a notice of intent to construct a qualifying conduit hydropower facility, pursuant to section 30 of the Federal Power Act (FPA). The proposed North Loup Canal Hydroelectric Project would have an installed capacity of 30 kilowatts (kW), and would be located in the applicant’s existing North Loup Main Canal in Valley County, Nebraska.

**Applicant Contact:** Amos Lange, 128 North 16th Street, Ord, NE 68862, Email: [nlrppid@yahoo.com](mailto:nlrppid@yahoo.com).

**FERC Contact:** Christopher Chaney, Phone No. (202) 502-6778, Email: [christopher.chaney@ferc.gov](mailto:christopher.chaney@ferc.gov).

**Qualifying Conduit Hydropower Facility Description:** The proposed project would consist of: (1) Four approximately 1.8-meter by 2.3-meter by 2.4-meter hydrokinetic turbine modules with a total capacity of 30 kW; and (2) appurtenant facilities. The proposed project would have an estimated annual generation of approximately 130 megawatt-hours.

A qualifying conduit hydropower facility is one that is determined or deemed to meet all the criteria shown in the table below.

**TABLE 1—CRITERIA FOR QUALIFYING CONDUIT HYDROPOWER FACILITY**

Statutory provision	Description	Satisfies (Y/N)
FPA 30(a)(3)(A) .....	The conduit the facility uses is a tunnel, canal, pipeline, aqueduct, flume, ditch, or similar manmade water conveyance that is operated for the distribution of water for agricultural, municipal, or industrial consumption and not primarily for the generation of electricity.	Y
FPA 30(a)(3)(C)(i) .....	The facility is constructed, operated, or maintained for the generation of electric power and uses for such generation only the hydroelectric potential of a non-federally owned conduit.	Y
FPA 30(a)(3)(C)(ii) .....	The facility has an installed capacity that does not exceed 40 megawatts .....	Y
FPA 30(a)(3)(C)(iii) .....	On or before August 9, 2013, the facility is not licensed, or exempted from the licensing requirements of Part I of the FPA.	Y

**Preliminary Determination:** The proposed North Loup Canal Hydroelectric Project will not alter the primary purpose of the conduit system,

which is used to distribute water for agricultural irrigation. Therefore, based upon the above criteria, Commission staff preliminarily determines that the

proposal satisfies the requirements for a qualifying conduit hydropower facility, which is not required to be licensed or exempted from licensing.



*Comments and Motions to Intervene:* Deadline for filing comments contesting whether the facility meets the qualifying criteria is 30 days from the issuance date of this notice.

Deadline for filing motions to intervene is 30 days from the issuance date of this notice.

Anyone may submit comments or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210 and 385.214. Any motions to intervene must be received on or before the specified deadline date for the particular proceeding.

*Filing and Service of Responsive Documents:* All filings must (1) bear in all capital letters the “COMMENTS CONTESTING QUALIFICATION FOR A CONDUIT HYDROPOWER FACILITY” or “MOTION TO INTERVENE,” as applicable; (2) state in the heading the name of the applicant and the project number of the application to which the filing responds; (3) state the name, address, and telephone number of the person filing; and (4) otherwise comply with the requirements of sections 385.2001 through 385.2005 of the Commission’s regulations.<sup>1</sup> All comments contesting Commission staff’s preliminary determination that the facility meets the qualifying criteria must set forth their evidentiary basis.

The Commission strongly encourages electronic filing. Please file motions to intervene and comments using the Commission’s eFiling system at <http://www.ferc.gov/docs-filing/efiling.asp>. Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at <http://www.ferc.gov/docs-filing/ecomment.asp>. You must include your name and contact information at the end of your comments. For assistance, please contact FERC Online Support at [FERCOnlineSupport@ferc.gov](mailto:FERCOnlineSupport@ferc.gov), (866) 208-3676 (toll free), or (202) 502-8659 (TTY). In lieu of electronic filing, you may send 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, MD 20852. A copy of all other filings in reference to this application 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.

*Locations of Notice of Intent:* The Commission provides all interested persons an opportunity to view and/or print the contents of this document via the internet through the Commission’s website at <http://www.ferc.gov/docs-filing/elibrary.asp>. Enter the docket number (*i.e.*, CD21-6) 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. Copies of the notice of intent can be obtained directly from the applicant. At this time, the Commission has suspended access to the Commission’s Public Reference Room due to the proclamation declaring a National Emergency concerning the Novel Coronavirus Disease (COVID-19), issued by the President on March 13, 2020. For assistance, call toll-free 1-866-208-3676 or email [FERCOnlineSupport@ferc.gov](mailto:FERCOnlineSupport@ferc.gov). For TTY, call (202) 502-8659.

Dated: June 2, 2021.

**Debbie-Anne A. Reese,**

*Deputy Secretary.*

[FR Doc. 2021-11989 Filed 6-7-21; 8:45 am]

**BILLING CODE 6717-01-P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

#### Combined Notice of Filings #1

Take notice that the Commission received the following electric rate filings:

*Docket Numbers:* ER18-1639-009.  
*Applicants:* Constellation Mystic Power, LLC.

*Description:* Compliance filing; Fourth Compliance Filing to be effective 6/1/2022.

*Filed Date:* 6/2/21.

*Accession Number:* 20210602-5098.

*Comments Due:* 5 p.m. ET 6/23/21.

*Docket Numbers:* ER19-2716-001; ER19-1398-001; ER19-2717-001; ER20-1399-001.

*Applicants:* Madison BTM, LLC, Madison ESS, LLC, Rumford ESS, LLC, Ocean State BTM, LLC.

*Description:* Notice of Change in Status of Madison BTM, LLC, et al.

*Filed Date:* 6/1/21.

*Accession Number:* 20210601-5382.

*Comments Due:* 5 p.m. ET 6/22/21.

*Docket Numbers:* ER20-1150-002.  
*Applicants:* The Dayton Power and Light Company, PJM Interconnection, L.L.C.

*Description:* Revised Refund Report of Dayton Power and Light Company.

*Filed Date:* 6/1/21.

*Accession Number:* 20210601-5388.

*Comments Due:* 5 p.m. ET 6/22/21.

*Docket Numbers:* ER20-2288-001.

*Applicants:* Tatanka Ridge Wind, LLC.

*Description:* Tatanka Ridge Wind, LLC submits Supplemental Information re Notice of Non-Material Change in Status.

*Filed Date:* 5/12/21.

*Accession Number:* 20210512-5074.

*Comments Due:* 5 p.m. ET 6/23/21.

*Docket Numbers:* ER21-2051-000.

*Applicants:* Tri-State Generation and Transmission Association, Inc.

*Description:* Tariff Cancellation: Notice of Cancellation of Service Agreement Nos. 801 and 802 (Final) to be effective 12/31/9998.

*Filed Date:* 6/1/21.

*Accession Number:* 20210601-5260.

*Comments Due:* 5 p.m. ET 6/22/21.

*Docket Numbers:* ER21-2052-000.

*Applicants:* PJM Interconnection, L.L.C.

*Description:* § 205(d) Rate Filing: Original WMPA, Service Agreement No. 6081; Queue No. AF2-246 to be effective 5/4/2021.

*Filed Date:* 6/2/21.

*Accession Number:* 20210602-5004.

*Comments Due:* 5 p.m. ET 6/23/21.

*Docket Numbers:* ER21-2053-000.

*Applicants:* ITC Midwest LLC.

*Description:* MISO Schedule 50 Cost Recovery Filing of ITC Midwest, LLC.

*Filed Date:* 6/1/21.

*Accession Number:* 20210601-5368.

*Comments Due:* 5 p.m. ET 6/22/21.

*Docket Numbers:* ER21-2054-000.

*Applicants:* ITC Midwest LLC.

*Description:* MISO Schedule 50 Cost Recovery Filing of ITC Midwest, LLC.

*Filed Date:* 6/1/21.

*Accession Number:* 20210601-5369.

*Comments Due:* 5 p.m. ET 6/22/21.

*Docket Numbers:* ER21-2055-000.

*Applicants:* ITC Midwest LLC.

*Description:* MISO Schedule 50 Cost Recovery Filing of ITC Midwest, LLC.

*Filed Date:* 6/1/21.

*Accession Number:* 20210601-5370.

*Comments Due:* 5 p.m. ET 6/22/21.

*Docket Numbers:* ER21-2056-000.

*Applicants:* ITC Midwest LLC.

*Description:* MISO Schedule 50 Cost Recovery Filing of ITC Midwest, LLC.

*Filed Date:* 6/1/21.

*Accession Number:* 20210601-5371.

*Comments Due:* 5 p.m. ET 6/22/21.

*Docket Numbers:* ER21-2057-000.

*Applicants:* ITC Midwest LLC.

*Description:* MISO Schedule 50 Cost Recovery Filing of ITC Midwest, LLC.

<sup>1</sup> 18 CFR 385.2001-2005 (2020).

*Filed Date:* 6/1/21.  
*Accession Number:* 20210601–5372.  
*Comments Due:* 5 p.m. ET 6/22/21.  
*Docket Numbers:* ER21–2058–000.  
*Applicants:* Michigan Electric Transmission Company LLC.

*Description:* MISO Schedule 50 Cost Recovery Filing of Michigan Electric Transmission Company, LLC.

*Filed Date:* 6/1/21.

*Accession Number:* 20210601–5373.

*Comments Due:* 5 p.m. ET 6/22/21.

*Docket Numbers:* ER21–2059–000.

*Applicants:* ITC Midwest LLC.

*Description:* MISO Schedule 50 Cost Recovery Filing of ITC Midwest, LLC.

*Filed Date:* 6/1/21.

*Accession Number:* 20210601–5374.

*Comments Due:* 5 p.m. ET 6/22/21.

*Docket Numbers:* ER21–2060–000.

*Applicants:* Duke Energy Ohio, Inc., PJM Interconnection, L.L.C.

*Description:* § 205(d) Rate Filing: Duke Ohio submits Interconnection Agreement, SA No. 3141 with EKPC to be effective 5/3/2021.

*Filed Date:* 6/2/21.

*Accession Number:* 20210602–5036.

*Comments Due:* 5 p.m. ET 6/23/21.

*Docket Numbers:* ER21–2061–000.

*Applicants:* Northern Indiana Public Service Company.

*Description:* § 205(d) Rate Filing: Filing of a CIAC Agreement to be effective 6/1/2021.

*Filed Date:* 6/2/21.

*Accession Number:* 20210602–5084.

*Comments Due:* 5 p.m. ET 6/23/21.

*Docket Numbers:* ER21–2062–000.

*Applicants:* Alabama Power Company.

*Description:* Tariff Cancellation: Raven Solar Development (Wilcox Solar) LGIA Termination Filing to be effective 6/2/2021.

*Filed Date:* 6/2/21.

*Accession Number:* 20210602–5105.

*Comments Due:* 5 p.m. ET 6/23/21.

*Docket Numbers:* ER21–2063–000.

*Applicants:* Alabama Power Company.

*Description:* Tariff Cancellation: Raven Solar Development (Taylor Solar) LGIA Termination Filing to be effective 6/2/2021.

*Filed Date:* 6/2/21.

*Accession Number:* 20210602–5106.

*Comments Due:* 5 p.m. ET 6/23/21.

Take notice that the Commission received the following electric reliability filings:

*Docket Numbers:* RR21–5–000.

*Applicants:* North American Electric Reliability Corporation.

*Description:* North American Electric Reliability Corporation's Report of Comparisons of Budgeted to Actual

Costs for 2020 for NERC and the Regional Entities.

*Filed Date:* 6/1/21.

*Accession Number:* 20210601–5381.

*Comments Due:* 5 p.m. ET 6/22/21.

The filings are accessible in the Commission's eLibrary system (<https://elibrary.ferc.gov/idmws/search/fercensearch.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: June 2, 2021.

**Debbie-Anne A. Reese,**

*Deputy Secretary.*

[FR Doc. 2021–11993 Filed 6–7–21; 8:45 am]

**BILLING CODE 6717–01–P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

[Project No. 175–029]

#### Pacific Gas and Electric Company; Notice of Intent To File License Application, Filing of Pre-Application Document, Approving Use of the Traditional Licensing Process

a. *Type of Filing:* Notice of Intent to File License Application and Request to Use the Traditional Licensing Process.

b. *Project No.:* P–175–029.

c. *Date Filed:* April 19, 2021.

d. *Submitted by:* Pacific Gas and Electric Company (PG&E).

e. *Name of Project:* Balch Hydroelectric Project.

*Location:* On the North Fork King River, in Fresno County, California. The project occupies 506.28 of federal land administered by the United States Department of Agriculture, Forest Service.

f. *Filed Pursuant to:* 18 CFR 5.3 and 5.5 of the Commission's regulations.

g. *Potential Applicant Contact(s):* Maureen Zawalick, 77 Beale St., San Francisco, CA 94105; (805) 545–4242; email at [maureen.zawalick@pge.com](mailto:maureen.zawalick@pge.com); or

Jennifer Post, Esq., 77 Beale St., San Francisco, CA 94105; (415) 973–9809; email at [jennifer.post@pge.com](mailto:jennifer.post@pge.com).

h. *FERC Contact:* Benjamin Mann at (202) 502–8127; or email at [benjamin.mann@ferc.gov](mailto:benjamin.mann@ferc.gov).

i. PG&E filed its request to use Traditional Licensing Process on April 19, 2021. PG&E provided public notice of its request on simultaneously. In a letter dated June 2, 2021 the Director of the Division of Hydropower Licensing approved PG&E's request to use the Traditional Licensing Process.

j. With this notice, we are initiating informal consultation with the U.S. Fish and Wildlife Service and/or NOAA Fisheries under section 7 of the Endangered Species Act and the joint agency regulations thereunder at 50 CFR, part 402; and NOAA Fisheries under section 305(b) of the Magnuson-Stevens Fishery Conservation and Management Act and implementing regulations at 50 CFR 600.920. We are also initiating consultation with the California State Historic Preservation Officer, as required by section 106, National Historic Preservation Act, and the implementing regulations of the Advisory Council on Historic Preservation at 36 CFR 800.2.

k. With this notice, we are designating PG&E as the Commission's non-federal representative for carrying out informal consultation pursuant to section 7 of the Endangered Species Act and section 305(b) of the Magnuson-Stevens Fishery Conservation and Management Act; and consultation pursuant to section 106 of the National Historic Preservation Act.

l. PG&E filed a Pre-Application Document (PAD; including a proposed process plan and schedule) with the Commission, pursuant to 18 CFR 5.6 of the Commission's regulations.

m. A copy of the PAD may be viewed and/or printed on the Commission's website (<http://www.ferc.gov>), using the "eLibrary" link. Enter the docket number, excluding the last three digits in the docket number field to access the document. At this time, the Commission has suspended access to the Commission's Public Reference Room, due to the proclamation declaring a National Emergency concerning the Novel Coronavirus Disease (COVID–19), issued on March 13, 2020. For assistance, contact FERC Online Support at [FERCOnlineSupport@ferc.gov](mailto:FERCOnlineSupport@ferc.gov), (866) 208–3676 (toll free), or (202) 502–8659 (TTY).

n. The licensee states its unequivocal intent to submit an application for a new license for Project No. P–175–029. Pursuant to 18 CFR 16.8, 16.9, and 16.10 each application for a new license and any competing license applications

must be filed with the Commission at least 24 months prior to the expiration of the existing license. All applications for license for this project must be filed by April 30, 2024.

o. Register online at <https://ferconline.ferc.gov/FERCONline.aspx> to be notified via email of new filing and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

Dated: June 2, 2021.

**Kimberly D. Bose,**

Secretary.

[FR Doc. 2021-11951 Filed 6-7-21; 8:45 am]

BILLING CODE 6717-01-P

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

[Project No. 12611-014]

#### Verdant Power, LLC; Notice of Application Ready for Environmental Analysis and Soliciting Comments, Recommendations, Terms and Conditions, and Prescriptions

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection.

a. *Type of Application:* Subsequent Minor License.

b. *Project No.:* P-12611-014.

c. *Date filed:* December 30, 2019.

d. *Applicant:* Verdant Power, LLC (Verdant Power).

e. *Name of Project:* Roosevelt Island Tidal Energy Project (RITE Project).

f. *Location:* On the East River in New York County, New York. The project does not occupy federal land.

g. *Filed Pursuant to:* Federal Power Act 16 U.S.C. 791(a)-825(r).

h. *Applicant Contact:* Mr. Ronald F. Smith, President and Chief Operating Officer, Verdant Power, LLC, P.O. Box 282, Roosevelt Island, New York, New York 10044. Phone: (703) 328-6842. Email: [rsmith@verdantpower.com](mailto:rsmith@verdantpower.com).

i. *FERC Contact:* Andy Bernick at (202) 502-8660, or [andrew.bernick@ferc.gov](mailto:andrew.bernick@ferc.gov).

j. *Deadline for filing comments, recommendations, terms and conditions, and prescriptions:* 60 days from the issuance date of this notice; reply comments are due 105 days from the issuance date of this notice.

The Commission strongly encourages electronic filing. Please file comments, recommendations, terms and conditions, and prescriptions using the Commission's eFiling system at <https://ferconline.ferc.gov/FERCONline.aspx>.

Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at <https://ferconline.ferc.gov/QuickComment.aspx>. 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](mailto: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, 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 docket number P-12611-014.

The Commission's Rules of Practice require all intervenors filing documents with the Commission to serve a copy of that document on each person on the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. This application has been accepted and is now ready for environmental analysis.

The Council on Environmental Quality (CEQ) issued a final rule on July 15, 2020, revising the regulations under 40 CFR parts 1500-1518 that federal agencies use to implement NEPA (see Update to the Regulations Implementing the Procedural Provisions of the National Environmental Policy Act, 85 FR 43304). The Final Rule became effective on and applies to any NEPA process begun after September 14, 2020. An agency may also apply the regulations to ongoing activities and environmental documents begun before September 14, 2020, which includes the RITE Project. Commission staff intends to conduct its NEPA review in accordance with CEQ's new regulations.

l. *The existing pilot project license, which expires on December 31, 2021, authorizes the following project facilities:* (a) Thirty 35-kilowatt, 5-meter-diameter axial flow turbine-generator units; (b) ten triframe mounts, each supporting three turbine-generator units; (c) 480-volt underwater cables from each triframe mount to five shoreline switchgear vaults that interconnect to a control room and interconnection points; and (d)

appurtenant facilities for navigation safety and operation.

On October 22, 2020, Verdant installed three turbine-generator units attached to one tri-frame mount under the existing pilot project license. Between October 2020 and January 2021, the pilot project generated about 90 megawatt-hours. Under the current pilot project license, Verdant is required to remove all project facilities, including triframe mounts and turbines, prior to the expiration of its pilot project license.

The proposed project would consist of a maximum of fifteen 35-kilowatt, 5-meter-diameter axial flow turbine-generator units with a total installed capacity of 0.525 megawatt, with underwater cables connecting five triframe mounts to two shoreline switchgear vaults. The project would operate using the natural tidal currents of the East River, during both ebb and flood tidal periods. As the direction of tidal flow changes, each turbine-generator unit would rotate (or yaw) to align the rotor to the direction of flow, through a passive system caused by hydrodynamic forces on the turbine-generator unit. The annual generation is expected to be from 840 to 1,200 megawatt-hours.

m. A copy of the application can be viewed on the Commission's website at <http://www.ferc.gov> using the "eLibrary" link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, contact FERC Online Support.

All filings must (1) bear in all capital letters the title "COMMENTS," "REPLY COMMENTS," "RECOMMENDATIONS," "TERMS AND CONDITIONS," or "PRESCRIPTIONS;" (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 submitting the filing; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. All comments, recommendations, terms and conditions or prescriptions must set forth their evidentiary basis and otherwise comply with the requirements of 18 CFR 4.34(b). Agencies may obtain copies of the application directly from the applicant. Each filing must be accompanied by proof of service on all persons listed on the service list prepared by the Commission in this proceeding, in accordance with 18 CFR 4.34(b) and 385.2010.

You may also register online at <http://www.ferc.gov/docs-filing/esubscription.asp> to be notified via

email of new filings and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

n. *The applicant must file no later than 60 days following the date of issuance of this notice:* (1) A copy of the water quality certification; (2) a copy of the request for certification, including proof of the date on which the certifying agency received the request; or (3) evidence of waiver of water quality certification. Please note that the certification request must comply with 40 CFR 121.5(b), including documentation that a pre-filing meeting request was submitted to the certifying authority at least 30 days prior to submitting the certification request. Please also note that the certification request must be sent to the certifying authority and to the Commission concurrently.

o. *Procedural schedule:* The application will be processed according to the following schedule. Revisions to the schedule will be made as appropriate.

Milestone	Target date
Deadline for Filing Comments, Recommendations, and Agency Terms and Conditions/Prescriptions.	August 2021.
Deadline for Filing Reply Comments.	September 2021.

Dated: June 2, 2021.

**Kimberly D. Bose,**  
Secretary.

[FR Doc. 2021-11955 Filed 6-7-21; 8:45 am]

BILLING CODE 6717-01-P

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

[Docket No. EL21-79-000]

#### Illinois Municipal Electric Agency v. PJM Interconnection, L.L.C.; Notice of Complaint

Take notice that on May 28, 2021, pursuant to sections 206, 306, and 309 of the Federal Power Act, 16 U.S.C. 824e, 825e, and 825h and Rule 206 of the Federal Energy Regulatory Commission's (Commission) Rules of Practice and Procedure, 18 CFR 385.206, Illinois Municipal Electric Agency (IMEA or Complainant) filed a formal complaint against PJM Interconnection, L.L.C. (PJM or Respondent), requesting that PJM properly administer the payment of Incremental Capacity Transfer Rights to IMEA without reduction in the 2021/2022 Delivery

Year and future Delivery Years, in accordance with PJM's Open Access Transmission Tariff and in a just and reasonable manner, all as more fully explained in its complaint.

The Complainant certifies that copies of the complaint were served on the contacts listed for Respondent in the Commission's list of Corporate Officials.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. The Respondent's answer and all interventions, or protests must be filed on or before the comment date. The Respondent's answer, motions to intervene, and protests must be served on the Complainant.

The Commission strongly encourages electronic filings of comments, protests and interventions in lieu of paper using the "eFiling" link at <http://www.ferc.gov>. Persons unable to file electronically may mail similar pleadings to the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426. Hand delivered submissions in docketed proceedings should be delivered to Health and Human Services, 12225 Wilkins Avenue, Rockville, Maryland 20852.

In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the internet through the Commission's Home Page (<http://www.ferc.gov>) using the "eLibrary" link. Enter the docket number excluding the last three digits in the docket number field to access the document. At this time, the Commission has suspended access to the Commission's Public Reference Room, due to the proclamation declaring a National Emergency concerning the Novel Coronavirus Disease (COVID-19), issued by the President on March 13, 2020. For assistance, contact the Federal Energy Regulatory Commission at [FERCOnlineSupport@ferc.gov](mailto:FERCOnlineSupport@ferc.gov), or call toll-free, (888) 208-3676 or TTY, (202) 502-8659.

*Comment Date:* 5:00 p.m. Eastern Time on June 17, 2021.

Dated: June 2, 2021.

**Debbie-Anne A. Reese,**  
Deputy Secretary.

[FR Doc. 2021-11995 Filed 6-7-21; 8:45 am]

BILLING CODE 6717-01-P

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

[Docket No. ER21-1953-000]

#### Heartland Divide Wind II, LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced proceeding of Heartland Divide Wind II, LLC's application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability, is June 22, 2021.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at <http://www.ferc.gov>. To facilitate electronic service, persons with internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically may mail similar pleadings to the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426. Hand delivered submissions in docketed proceedings should be delivered to Health and Human Services, 12225 Wilkins Avenue, Rockville, Maryland 20852.

In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the internet through the Commission's Home Page (<http://www.ferc.gov>) using the "eLibrary" link. Enter the docket number excluding the last three digits in the docket number field to access the document. At this time, the Commission has suspended access to the Commission's Public Reference Room, due to the proclamation declaring a National Emergency concerning the Novel Coronavirus Disease (COVID-19), issued by the President on March 13, 2020. For assistance, contact the Federal Energy Regulatory Commission at [FERCOnlineSupport@ferc.gov](mailto:FERCOnlineSupport@ferc.gov) or call toll-free, (886) 208-3676 or TTY, (202) 502-8659.

Dated: June 2, 2021.

**Debbie-Anne A. Reese**,  
Deputy Secretary.

[FR Doc. 2021-11992 Filed 6-7-21; 8:45 am]

**BILLING CODE 6717-01-P**

**ENVIRONMENTAL PROTECTION AGENCY**

[EPA-HQ-OPP-2021-0132; FRL-10024-48]

**Cryolite and Propazine; Product Cancellation Order for Certain Pesticide Registrations**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice.

**SUMMARY:** This notice announces EPA's order for the cancellations, voluntarily requested by the registrants and accepted by the Agency, of the products listed in Table 1 of Unit II., pursuant to the Federal Insecticide, Fungicide, and

Rodenticide Act (FIFRA). This cancellation order follows a March 10, 2021 **Federal Register** Notice of Receipt of Requests from the registrants listed in Table 2 of Unit II. to voluntarily cancel these product registrations. In the March 10, 2021 notice, EPA indicated that it would issue an order implementing the cancellations, unless the Agency received substantive comments within the 30-day comment period that would merit its further review of these requests, or unless the registrants withdrew their requests. The Agency did not receive any comments on the notice. Further, the registrants did not withdraw their requests. Accordingly, EPA hereby issues in this notice a cancellation order granting the requested cancellations. This cancellation order terminates the last cryolite and propazine products registered in the United States. Any distribution, sale, or use of the products subject to this cancellation order is permitted only in accordance with the terms of this order, including any existing stocks provisions.

**DATES:** The cancellations are effective June 8, 2021.

**FOR FURTHER INFORMATION CONTACT:** Carolyn Smith, Pesticide Re-Evaluation Division (7508P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460-0001; telephone number: (703) 347-8325; email address: [smith.carolyn@epa.gov](mailto:smith.carolyn@epa.gov).

**SUPPLEMENTARY INFORMATION:**

**I. General Information**

*A. Does this action apply to me?*

This action is directed to the public in general, and may be of interest to a wide range of stakeholders including environmental, human health, and agricultural advocates; the chemical

industry; pesticide users; and members of the public interested in the sale, distribution, or use of pesticides. Since others also may be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action.

*B. How can I get copies of this document and other related information?*

The docket for this action, identified by docket identification (ID) number EPA-HQ-OPP-2021-0132, is available at <http://www.regulations.gov> or at the Office of Pesticide Programs Regulatory Public Docket (OPP Docket) in the Environmental Protection Agency Docket Center (EPA/DC), West William Jefferson Clinton Bldg., Rm. 3334, 1301 Constitution Ave. NW, Washington, DC 20460-0001. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566-1744, and the telephone number for the OPP Docket is (703) 305-5805. Due to the public health concerns related to COVID-19, the EPA Docket Center (EPA/DC) and Reading Room is closed to visitors with limited exceptions. The staff continues to provide remote customer service via email, phone, and webform. For the latest status information on EPA/DC services and docket access, visit <https://www.epa.gov/dockets>.

**II. What action is the Agency taking?**

This notice announces the cancellation, as requested by registrants, of products registered under FIFRA section 3 (7 U.S.C. 136a) or 24(c) (7 U.S.C. 136v(c)). These registrations are listed in sequence by registration number (or company number and 24(c) number) in Table 1 of this unit.

TABLE 1—PRODUCT CANCELLATIONS

EPA registration No.	Product name	Chemical name
10163-41	Prokil Cryolite 96	Cryolite.
10163-225	Gowan Cryolite Bait	Cryolite.
10163-242	Prokil Cryolite 75-Dust	Cryolite.
10163-243	Prokil Cryolite 50-Dust	Cryolite.
42750-148	Propazine 4L	Propazine.
42750-149	Propazine Technical	Propazine.
91813-32	Kryocide Insecticide	Cryolite.
FL000011	Prokil Cryolite 96	Cryolite.

Table 2 of this unit includes the names and addresses of record for all registrants of the products in Table 1 of

this unit, in sequence by EPA company number. This number corresponds to the first part of the EPA registration

numbers of the products listed in Table 1 of this unit.

TABLE 2—REGISTRANTS OF CANCELLED PRODUCTS

EPA company No.	Company name and address
10163 .....	Gowan Company, P.O. Box 5569, Yuma, AZ 85366.
42750 .....	Albaugh, LLC, P.O. Box 2127, Valdosta, GA 31604–2127.
91813 .....	UPL NA, Inc., 630 Freedom Business Ctr., # 402, King of Prussia, PA 19406.

### III. Summary of Public Comments Received and Agency Response to Comments

During the public comment period provided, EPA received no comments in response to the March 10, 2021 **Federal Register** notice announcing the Agency's receipt of the requests for voluntary cancellations of products listed in Table 1 of Unit II.

### IV. Cancellation Order

Pursuant to FIFRA section 6(f) (7 U.S.C. 136d(f)), EPA hereby approves the requested cancellations of the registrations identified in Table 1 of Unit II. Accordingly, the Agency hereby orders that the product registrations identified in Table 1 of Unit II. are canceled. The effective date of the cancellations that are the subject of this notice is June 8, 2021. Any distribution, sale, or use of existing stocks of the products identified in Table 1 of Unit II. in a manner inconsistent with any of the provisions for disposition of existing stocks set forth in Unit VI. will be a violation of FIFRA.

### V. What is the Agency's authority for taking this action?

Section 6(f)(1) of FIFRA (7 U.S.C. 136d(f)(1)) provides that a registrant of a pesticide product may at any time request that any of its pesticide registrations be canceled or amended to terminate one or more uses. FIFRA further provides that, before acting on the request, EPA must publish a notice of receipt of any such request in the **Federal Register**. Thereafter, following the public comment period, the EPA Administrator may approve such a request. The notice of receipt for this action was published for comment in the **Federal Register** of March 10, 2021 (86 FR 13714) (FRL–10020–72). The comment period closed on April 9, 2021.

### VI. Provisions for Disposition of Existing Stocks

Existing stocks are those stocks of registered pesticide products which are currently in the United States and which were packaged, labeled, and released for shipment prior to the effective date of the cancellation action. The existing stocks provisions for the

products subject to this order are as follows.

The registrants may continue to sell and distribute existing stocks of the cryolite products listed in Table 1 of Unit II. until December 8, 2022, which is 18 months after the publication of the Cancellation Order in the **Federal Register**. The registrants may continue to sell and distribute existing stocks of the propazine products listed in Table 1 of Unit II. Until June 8, 2022, which is 1 year after the publication of the Cancellation Order in the **Federal Register**. Thereafter, the registrants are prohibited from selling or distributing products listed in Table 1, except for export in accordance with FIFRA section 17 (7 U.S.C. 136o), or proper disposal. Persons other than the registrants may sell, distribute, or use existing stocks of products listed in Table 1 of Unit II. until existing stocks are exhausted, provided that such sale, distribution, or use is consistent with the terms of the previously approved labeling on, or that accompanied, the canceled products.

**Authority:** 7 U.S.C. 136 *et seq.*

Dated: May 27, 2021.

**Mary Reaves,**

*Director, Pesticide Re-Evaluation Division, Office of Pesticide Programs.*

[FR Doc. 2021–11919 Filed 6–7–21; 8:45 am]

**BILLING CODE 6560–50–P**

### FEDERAL ELECTION COMMISSION

#### Sunshine Act Meeting

**TIME AND DATE:** Thursday, June 10, 2021 at 10:00 a.m.

**PLACE:** Virtual meeting. Note: Because of the COVID–19 pandemic, we will conduct the open meeting virtually. If you would like to access the meeting, see the instructions below.

**STATUS:** This meeting will be open to the public. To access the virtual meeting, go to the Commission's website [www.fec.gov](http://www.fec.gov) and click on the banner to be taken to the meeting page.

**MATTERS TO BE CONSIDERED:** Motion to Amend Directive 68 to Include Additional Information in Quarterly Status Reports to Commission.

Management and Administrative Matters.

**CONTACT PERSON FOR MORE INFORMATION:** Judith Ingram, Press Officer. Telephone: (202) 694–1220.

**Authority:** Government in the Sunshine Act, 5 U.S.C. 552b.

**Laura E. Sinram,**

*Acting Secretary and Clerk of the Commission.*

[FR Doc. 2021–12041 Filed 6–4–21; 11:15 am]

**BILLING CODE 6715–01–P**

### FEDERAL MARITIME COMMISSION

#### Notice of Agreements Filed

The Commission hereby gives notice of the filing of the following agreements under the Shipping Act of 1984. Interested parties may submit comments, relevant information, or documents regarding the agreements to the Secretary by email at [Secretary@fmc.gov](mailto:Secretary@fmc.gov), or by mail, Federal Maritime Commission, Washington, DC 20573. Comments will be most helpful to the Commission if received within 12 days of the date this notice appears in the **Federal Register**. Copies of agreements are available through the Commission's website ([www.fmc.gov](http://www.fmc.gov)) or by contacting the Office of Agreements at (202)–523–5793 or [tradeanalysis@fmc.gov](mailto:tradeanalysis@fmc.gov).

*Agreement No.:* 201361.

*Agreement Name:* Port of Los Angeles Data Delivery Agreement.

*Parties:* The City of Los Angeles Harbor Department, acting by and through the Executive Director of its Harbor Department; PierPASS LLC, APMT Terminals Pacific Ltd.; Fenix Marine Services, Ltd.; Everport Terminal Services, Inc.; Trapac LLC; West Basin Container Terminal LLC; and Yusen Terminals LLC.

*Synopsis:* The agreement authorizes terminals who are tenants of the Port of Los Angeles to provide the Port with truck data from the tenants' terminal gate transactions. The parties request expedited review.

*Proposed Effective Date:* 7/17/2021.

*Location:* <https://www2.fmc.gov/FMC.Agreements.Web/Public/AgreementHistory/43505>.

Dated: June 3, 2021.

**Rachel E. Dickon,**  
Secretary.

[FR Doc. 2021-11975 Filed 6-7-21; 8:45 am]

BILLING CODE 6730-02-P

## FEDERAL RESERVE SYSTEM

### Notice of Proposals To Engage in or To Acquire Companies Engaged in Permissible Nonbanking Activities

The companies listed in this notice have given notice under section 4 of the Bank Holding Company Act (12 U.S.C. 1843) (BHC Act) and Regulation Y, (12 CFR part 225) to engage de novo, or to acquire or control voting securities or assets of a company, including the companies listed below, that engages either directly or through a subsidiary or other company, in a nonbanking activity that is listed in § 225.28 of Regulation Y (12 CFR 225.28) or that the Board has determined by Order to be closely related to banking and permissible for bank holding companies. Unless otherwise noted, these activities will be conducted throughout the United States.

The public portions of the applications listed below, as well as other related filings required by the Board, if any, are available for immediate inspection at the Federal Reserve Bank(s) indicated below and at the offices of the Board of Governors. This information may also be obtained on an expedited basis, upon request, by contacting the appropriate Federal Reserve Bank and from the Board's Freedom of Information Office at <https://www.federalreserve.gov/foia/request.htm>. Interested persons may express their views in writing on the question whether the proposal complies with the standards of section 4 of the BHC Act.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors, Ann E. Misback, Secretary of the Board, 20th Street and Constitution Avenue NW, Washington, DC 20551-0001, not later June 23, 2021.

*A. Federal Reserve Bank of San Francisco* (Sebastian Astrada, Director, Applications) 101 Market Street, San Francisco, California 94105-1579:

1. *BankGuam Holding Company, Hagatna, Guam*; to acquire additional voting shares of ASC Trust, LLC, Hagatna, Guam, and thereby engage in performing trust company functions and providing employee benefits consulting services pursuant to section 225.28(b)(5) and (b)(9)(ii) of the Board's Regulation Y, respectively.

Board of Governors of the Federal Reserve System, June 3, 2021.

**Ann Misback,**  
Secretary of the Board.

[FR Doc. 2021-12011 Filed 6-7-21; 8:45 am]

BILLING CODE 6210-01-P

## FEDERAL RESERVE SYSTEM

### Change in Bank Control Notices; Acquisitions of Shares of a Bank or Bank Holding Company

The notificants listed below have applied under the Change in Bank Control Act (Act) (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire shares of a bank or bank holding company. The factors that are considered in acting on the applications are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The public portions of the applications listed below, as well as other related filings required by the Board, if any, are available for immediate inspection at the Federal Reserve Bank(s) indicated below and at the offices of the Board of Governors. This information may also be obtained on an expedited basis, upon request, by contacting the appropriate Federal Reserve Bank and from the Board's Freedom of Information Office at <https://www.federalreserve.gov/foia/request.htm>. Interested persons may express their views in writing on the standards enumerated in paragraph 7 of the Act.

Comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors, Ann E. Misback, Secretary of the Board, 20th Street and Constitution Avenue NW, Washington DC 20551-0001, not later than June 23, 2021.

*A. Federal Reserve Bank of St. Louis* (Holly A. Rieser, Manager) P.O. Box 442, St. Louis, Missouri 63166-2034.

Comments can also be sent electronically to [Comments.applications@stls.frb.org](mailto:Comments.applications@stls.frb.org):

1. *Rich Land Bancorp, Inc. Employee Stock Option Plan (ESOP) and Dan L. Eichelberger, individually, and as trustee of the ESOP, both of Olney, Illinois*; to retain voting shares of Rich Land Bancorp, Inc., and thereby indirectly retain voting shares of TrustBank, both of Olney, Illinois.

Board of Governors of the Federal Reserve System, June 3, 2021.

**Ann Misback,**  
Secretary of the Board.

[FR Doc. 2021-12012 Filed 6-7-21; 8:45 am]

BILLING CODE 6210-01-P

## FEDERAL RESERVE SYSTEM

### Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The public portions of the applications listed below, as well as other related filings required by the Board, if any, are available for immediate inspection at the Federal Reserve Bank(s) indicated below and at the offices of the Board of Governors. This information may also be obtained on an expedited basis, upon request, by contacting the appropriate Federal Reserve Bank and from the Board's Freedom of Information Office at <https://www.federalreserve.gov/foia/request.htm>. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)).

Comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors, Ann E. Misback, Secretary of the Board, 20th Street and Constitution Avenue NW, Washington DC 20551-0001, not later than July 8, 2021.

*A. Federal Reserve Bank of Boston* (Prabal Chakrabarti, Senior Vice President) 600 Atlantic Avenue, Boston, Massachusetts 02210-2204. Comments can also be sent electronically to [BOS.SRC.Applications.Comments@bos.frb.org](mailto:BOS.SRC.Applications.Comments@bos.frb.org):

1. *Webster Financial Corporation, Waterbury, Connecticut*; to merge with Sterling Bancorp, and thereby indirectly acquire Sterling National Bank, both of Pearl River, New York.

Board of Governors of the Federal Reserve System, June 3, 2021.

**Ann Misback,**  
Secretary of the Board.

[FR Doc. 2021-12013 Filed 6-7-21; 8:45 am]

BILLING CODE P



**DEPARTMENT OF HEALTH AND HUMAN SERVICES**

**Administration for Children and Families**

**Submission for OMB Review; Evaluation of Project Connect (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) at the U.S. Department of Health and Human Services (HHS) is proposing a new information collection to assess the implementation of Project Connect, a comprehensive home visitation intervention that provides home-based services and treatment to child welfare-involved, substance-affected families with children and adolescents ages 0 to 17.

**DATES:** *Comments due within 30 days of publication.* OMB must make a decision about the collection of information between 30 and 60 days after publication of this document in the **Federal Register**. Therefore, a comment is best assured of having its full effect if OMB receives it within 30 days of publication.

**ADDRESSES:** Written comments and recommendations for the proposed

information collection should be sent within 30 days of publication of this notice to [www.reginfo.gov/public/do/PRAMain](http://www.reginfo.gov/public/do/PRAMain). Find this particular information collection by selecting “Currently under 30-day Review—Open for Public Comments” or by using the search function.

**SUPPLEMENTARY INFORMATION:**

*Description:* The proposed information collection activity will assess the implementation of Project Connect, a comprehensive home visitation intervention that provides home-based services and treatment to child welfare-involved, substance-affected families with children and adolescents ages 0 to 17. The program aims to strengthen and address the complex needs of substance-affected families by providing intensive, long-term services that address issues of unhealthy parental substance use and provide help for parents recover while keeping children safe. It focuses on maintaining children safely in their homes and preventing admission to care, or facilitating reunification when children have been placed in out-of-home care.

The implementation study will support a planned effectiveness evaluation that will rely on administrative data to examine the impact of the program on child welfare outcomes. These information collection activities will take place over the course

of five site visits to the program and child welfare agency that are participating in the study. Information collection activities include interviews with program and child welfare agency administrators, focus groups with program and child welfare agency staff, interviews and focus groups with participants, interviews with other program stakeholders, and observations of program staff meetings, program delivery, and judicial hearings. Site visits will also include direct observations of staff delivery of the program, program staff meetings, and relevant judicial hearings/activities for program families.

This evaluation is part of a larger project to help ACF build the evidence base in child welfare through rigorous evaluation of programs, practices, and policies. The activities and products from this project will contribute to evidence building in child welfare and help to determine the effectiveness of a substance use program on child welfare outcomes.

*Respondents:* Semi-structured interviews will be completed with agency and program administrators, parents who are participating in the program, parents receiving services as usual, and other program stakeholders. Focus groups will be conducted with agency and program staff and parents who are participating in the program and parents receiving services as usual.

**ANNUAL BURDEN ESTIMATES**

Instrument	Number of respondents (total over request period)	Number of responses per respondent (total over request period)	Avg. burden per response (in hours)	Total burden (in hours)	Annual burden (in hours)
Interview Guide for Administrators (Project Connect, Child Welfare Agency, and Child Welfare Central Referral Unit) .....	14	1	1	14	5
Focus Group Guide for Staff (Project Connect and Child Welfare Agency Staff) .....	24	1	1.50	36	12
Interview Guide for Other Stakeholders (Behavioral Health and Judicial Stakeholders) .....	12	1	1	12	4
Interview Guide for Families .....	16	1	1	16	5
Focus Group Guide for Families .....	24	1	1.5	36	12

*Estimated Total Annual Burden Hours:* 38.

**Authority:** 42 U.S.C. 676.

**Mary B. Jones,**

*ACF/OPRE Certifying Officer.*

[FR Doc. 2021-11934 Filed 6-7-21; 8:45 am]

**BILLING CODE 4184-25-P**

**DEPARTMENT OF HEALTH AND HUMAN SERVICES**

**Administration for Children and Families**

**Submission for OMB Review; Head Start Family and Child Experiences Survey (FACES) (OMB #0970-0151)**

**AGENCY:** Office of Planning, Research, and Evaluation, Administration for Children and Families, HHS.

**ACTION:** Request for public comment.

**SUMMARY:** The Office of Planning, Research, and Evaluation (OPRE), Administration for Children and Families (ACF), U.S. Department of Health and Human Services (HHS), is proposing to collect data for a new wave of the Head Start Family and Child Experiences Survey (FACES).

**DATES:** *Comments due within 30 days of publication.* OMB must make a decision about the collection of information



between 30 and 60 days after publication of this document in the **Federal Register**. Therefore, a comment is best assured of having its full effect if OMB receives it within 30 days of publication.

**ADDRESSES:** Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to [www.reginfo.gov/public/do/PRAMain](http://www.reginfo.gov/public/do/PRAMain). Find this particular information collection by selecting “Currently under 30-day Review—Open for Public Comments” or by using the search function.

**SUPPLEMENTARY INFORMATION:**

*Description:* The purpose of the FACES data collection is to support the 2007 reauthorization of the Head Start program (Pub. L. 110–134), which calls for periodic assessments of Head Start’s quality and effectiveness.

FACES 2019 focuses on Head Start Regions I through X (which are geographically based); AIAN (American Indian and Alaska Native) FACES 2019 focuses on Region XI (which funds Head Start programs that serve federally recognized American Indian and Alaska Native tribes). Both studies will provide data on a set of key indicators for Head

Start programs. Information about the Head Start program recruitment and center selection processes and on the fall 2019 and spring 2020 data collection activities for both FACES and AIAN FACES can be found here: [https://www.reginfo.gov/public/do/PRAViewICR?ref\\_nbr=202005-0970-009](https://www.reginfo.gov/public/do/PRAViewICR?ref_nbr=202005-0970-009).

The studies are adding a fall 2021 data collection to address how families are faring during the COVID–19 pandemic. Data collection activities will include classroom and child sampling information collection, parent surveys, teacher child reports, and teacher surveys.

Sampling will begin with a freshening of the programs included in FACES fall 2019 and spring 2020 waves for a target of 180 programs that are nationally representative of all Head Start programs in the 2021–2022 program year. FACES fall 2021 data collection will take place in 60 of the 180 programs. AIAN FACES will return to the same 22 programs that participated in 2019 and 2020 data collection.

Sampling of teachers and children starts with sampling activities for 162 Head Start centers (120 for FACES 2019 and 42 for AIAN FACES 2019) in fall 2021. Study team members will request

a list of all teachers and home visitors working with Head Start-funded children. Next, for each selected teacher or home visitor, we will request information for each child enrolled.

For the fall 2021 collection, FACES will survey the parents of 2,400 Head Start children in Regions I–X (FACES 2019) and 800 children in Region XI (AIAN FACES 2019) and ask their Head Start teachers to rate children’s social and emotional skills. Parents of sampled children (2,400 for FACES and 800 for AIAN FACES) will complete surveys on the web or by telephone about their children and family in the context of the COVID–19 pandemic. Head Start teachers will rate each sampled child (approximately 10 children per classroom) using the Web or paper-and-pencil forms. Teachers will also complete a survey, also using the web or paper-and-pencil forms, about their well-being and background. Additional data collection activities, to include the programs and respondents from fall 2021 plus the remaining 120 FACES programs, are planned for spring 2022 and will be included in a future **Federal Register** notice.

*Respondents:* Parents of Head Start children; Head Start teachers.

ANNUAL BURDEN ESTIMATES

Instrument	Number of respondents (total over request period)	Number of responses per respondent (total over request period)	Average burden per response (hours)	Total burden (hours)	Annual burden (hours)
Fall 2021 special telephone script and recruitment information collection for program directors, Regions I–X .....	77	1	1	77	26
Fall 2021 special telephone script and recruitment information collection for program directors, Region XI .....	22	1	1	22	7
Fall 2021 special telephone script and recruitment information collection for on-site coordinators, Regions I–X .....	60	1	1	60	20
Fall 2021 special telephone script and recruitment information collection for on-site coordinators, Region XI .....	22	1	1	22	7
FACES 2019 fall 2021 special teacher sampling form from Head Start staff .....	120	1	.17	20	7
FACES 2019 fall 2021 special child roster form from Head Start staff .....	120	1	.33	40	13
FACES 2019 special parent consent form for fall 2021 and spring 2022 data collection .....	2,400	1	.17	408	136
FACES 2019 fall 2021 special Head Start parent survey .....	2,400	1	.58	1,392	464
FACES 2019 fall 2021 special Head Start teacher child report .....	240	10	.17	408	136
FACES 2019 fall 2021 special Head Start teacher survey .....	240	1	.17	41	14
AIAN FACES 2019 fall 2021 special teacher sampling form from Head Start staff .....	42	1	.17	7	2
AIAN FACES 2019 fall 2021 special child roster form from Head Start staff .....	42	1	.33	14	5
AIAN FACES 2019 special parent consent form for fall 2021 and spring 2022 data collection .....	800	1	.17	136	45

ANNUAL BURDEN ESTIMATES—Continued

Instrument	Number of respondents (total over request period)	Number of responses per respondent (total over request period)	Average burden per response (hours)	Total burden (hours)	Annual burden (hours)
AIAN FACES 2019 fall 2021 special Head Start parent survey .....	800	1	.58	464	155
AIAN FACES 2019 fall 2021 special Head Start teacher child report .....	90	9	.17	138	46
AIAN FACES 2019 fall 2021 special Head Start teacher survey .....	90	1	.17	15	5

*Estimated Total Annual Burden Hours:* 1,088.

**Authority:** Section 640(a)(2)(D) and section 649 of the Improving Head Start for School Readiness Act of 2007.

**Mary B. Jones,**  
ACF/OPRE Certifying Officer.  
[FR Doc. 2021-11935 Filed 6-7-21; 8:45 am]  
**BILLING CODE 4184-22-P**

**DEPARTMENT OF HEALTH AND HUMAN SERVICES**

**Health Resources and Services Administration**

**Agency Information Collection Activities: Submission to OMB for Review and Approval; Public Comment Request; National Survey of Organ Donation Attitudes and Practices, OMB No. 0915-0290—Extension**

**AGENCY:** Health Resources and Services Administration (HRSA), Department of Health and Human Services.

**ACTION:** Notice.

**SUMMARY:** In compliance with the Paperwork Reduction Act of 1995, HRSA has submitted an Information Collection Request (ICR) to the Office of Management and Budget (OMB) for review and approval. Comments submitted during the first public review of this ICR will be provided to OMB. OMB will accept further comments from the public during the review and approval period.

**DATES:** Comments on this ICR should be received no later than July 8, 2021.

**ADDRESSES:** Submit your comments, including the ICR Title, to the desk officer for HRSA, either by email to *OIRA\_submission@omb.eop.gov* or by fax to 202-395-5806.

**FOR FURTHER INFORMATION CONTACT:** To request a copy of the clearance requests submitted to OMB for review, email Lisa Wright-Solomon, the HRSA Information Collection Clearance Officer at *paperwork@hrsa.gov* or call (301) 443-1984.

**SUPPLEMENTARY INFORMATION:**  
*Information Collection Request Title:* National Survey of Organ Donation Attitudes and Practices, OMB No. 0915-0290—Extension.

*Abstract:* HRSA is requesting approval by OMB for an extension of a previously approved collection of information (OMB control number 0915-0290). The National Survey of Organ Donation Attitudes and Practices is conducted approximately every 6-7 years and serves a critical role in providing HRSA and the donation community with data regarding why Americans choose to donate organs, current barriers to donation, and possible paths to increasing donations. Survey data and derived analytic insights help HRSA develop and target appropriate messages for public outreach and educational initiatives.

A 60-day notice published in the **Federal Register** on April 19, 2021, vol. 86, No. 73; pp. 20374. There were no public comments.

*Need and Proposed Use of the Information:* OMB previously approved this survey and HRSA fielded it during 2005, 2012, and 2019. Results of the data collected from this survey will help develop appropriate messages for future public outreach and educational initiatives to increase awareness about organ donation and ultimately the number of registered donors.

*Likely Respondents:* A nationally representative sample of adults over the age of 18 with a high number of responses from populations of interest such as racial-ethnic minorities, including African American, Asian, Native American, and Hispanic respondents, as well as respondents of all age groups and education levels.

*Burden Statement:* Burden in this context means the time expended by persons to generate, maintain, retain, disclose, or provide the information requested. This includes the time needed to review instructions; to develop, acquire, install, and utilize technology and systems for collecting, validating, verifying, processing and maintaining information, and disclosing and providing information; to train personnel and be able to respond to a collection of information; to search data sources; to complete and review the collection of information, and to transmit or otherwise disclose the information. A summary of the total annual burden hours estimated for this ICR is in the table below.

TOTAL ESTIMATED ANNUALIZED BURDEN—HOURS

Form name	Number of respondents	Number of responses per respondent	Total responses	Average burden per response (in hours)	Total burden hours
National Survey of Organ Donation Attitudes and Practices Telephone (English and Spanish Versions) .....	2,000	1	2,000	0.37	740
National Survey of Organ Donation Attitudes and Practices Web Online Panel (English and Spanish Versions)	8,000	1	8,000	0.27	2,160
Total .....	10,000	.....	10,000	.....	2,900

HRSA specifically requests comments on (1) the necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

**Maria G. Button,**

*Director, Executive Secretariat.*

[FR Doc. 2021-11959 Filed 6-7-21; 8:45 am]

**BILLING CODE 4165-15-P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

#### National Institute of Mental Health; 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 Mental Health Special Emphasis Panel; HEAL Initiative RFA Review: Optimizing Multi-Component Service Delivery Interventions for OUD, Co-Occurring Conditions, and/or Suicide Risk.

*Date:* June 29, 2021.

*Time:* 2:00 p.m. to 5:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institutes of Health, 6100 Executive Boulevard, Rockville, MD 20852 (Telephone Conference Call).

*Contact Person:* Nicholas Gaiano, Ph.D., Review Branch Chief, Division of Extramural Activities, National Institute of Mental Health, NIH, Neuroscience Center/Room 6150/MSB 9606, 6001 Executive Boulevard, Bethesda, MD 20892-9606, 301-443-2742, [nick\\_gaiano@nih.gov](mailto:nick_gaiano@nih.gov).

(Catalogue of Federal Domestic Assistance Program No. 93.242, Mental Health Research Grants, National Institutes of Health, HHS)

Dated: June 3, 2021.

**Melanie J. Pantoja,**

*Program Analyst, Office of Federal Advisory Committee Policy.*

[FR Doc. 2021-11967 Filed 6-7-21; 8:45 am]

**BILLING CODE 4140-01-P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

#### Center for Scientific Review; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the Bioengineering of Neuroscience, Vision and Low Vision Technologies Study Section, June 17, 2021, 08:00 a.m. to June 18, 2021, 07:00 p.m., National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 which was published in the **Federal Register** on May 18, 2021, 86 FR 26930.

#### Correction

In the **Federal Register** of May 18, 2021, in FR Doc 2021-10425, on page 26930, in the second column, under the *Name of Committee:* Emerging Technologies and Training Neurosciences Integrated Review Group; Bioengineering of Neuroscience, Vision and Low Vision Technologies Study Section heading, correct the "*Date*" to read June 16, 2021-June 17, 2021. The meeting is closed to the public.

Dated: June 2, 2021.

**David W. Freeman,**

*Program Analyst, Office of Federal Advisory Committee Policy.*

[FR Doc. 2021-11842 Filed 6-7-21; 8:45 am]

**BILLING CODE 4140-01-P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

#### National Institute of Neurological Disorders and Stroke; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant

applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

*Name of Committee:* National Institute of Neurological Disorders and Stroke Special Emphasis Panel; NST-1 Member Conflict SEP.

*Date:* June 29, 2021.

*Time:* 9:00 a.m. to 12:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852 (Virtual Meeting).

*Contact Person:* William C. Benzing, Ph.D., Scientific Review Officer, Scientific Review Branch, Division of Extramural Activities, NINDS, NIH, NSC, 6001 Executive Blvd., Suite 3204, MSC 9529, Rockville, MD 20852, (301) 496-0660, [benzingw@mail.nih.gov](mailto:benzingw@mail.nih.gov).

*Name of Committee:* National Institute of Neurological Disorders and Stroke Special Emphasis Panel; BRAIN Initiative Advanced Postdoctoral Career Transition Awards to Promote Diversity (K99).

*Date:* July 1, 2021.

*Time:* 10:00 a.m. to 6:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852 (Virtual Meeting).

*Contact Person:* Tatiana Pasternak, Ph.D., Scientific Review Officer, Scientific Review Branch, Division of Extramural Activities, NINDS/NIH, NSC, 6001 Executive Blvd., Suite 3208, MSC 9529, Rockville, MD 20852, (301) 496-9223, [tatiana.pasternak@nih.gov](mailto:tatiana.pasternak@nih.gov).

*Name of Committee:* National Institute of Neurological Disorders and Stroke Special Emphasis Panel; Neurological Sciences and Disorders B (NSD-B) Conflict SEP Panel.

*Date:* July 8, 2021.

*Time:* 2:00 p.m. to 4:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852 (Virtual Meeting).

*Contact Person:* Joel A. Saydoff, Ph.D., Scientific Review Officer, Scientific Review Branch, Division of Extramural Activities, NINDS/NIH, NSC, 6001 Executive Blvd., Room 3205, MSC 9529, Rockville, MD 20852, (301) 496-9223, [joel.saydoff@nih.gov](mailto:joel.saydoff@nih.gov).

(Catalogue of Federal Domestic Assistance Program Nos. 93.853, Clinical Research Related to Neurological Disorders; 93.854, Biological Basis Research in the Neurosciences, National Institutes of Health, HHS)

Dated: June 2, 2021.

**Tyeshia M. Roberson,**

*Program Analyst, Office of Federal Advisory Committee Policy.*

[FR Doc. 2021-11931 Filed 6-7-21; 8:45 am]

**BILLING CODE 4140-01-P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

#### National Institute of Neurological Disorders and Stroke; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

*Name of Committee:* National Institute of Neurological Disorders and Stroke Special Emphasis Panel; NINDS Summer Research Education Experience (R25).

*Date:* July 12, 2021.

*Time:* 10:00 a.m. to 6:00 p.m.

*Agenda:* To review and evaluate grant applications and/or proposals.

*Place:* National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852 (Virtual Meeting).

*Contact Person:* DeAnna Lynn Adkins, Ph.D., Scientific Review Officer, Scientific Review Branch, NSC Building, Rockville, MD 20852, 301-496-9223, [deanna.adkins@nih.gov](mailto:deanna.adkins@nih.gov).

*Name of Committee:* National Institute of Neurological Disorders and Stroke Special Emphasis Panel; BRAIN Biology and Biophysics of Neural Stimulation and Recording Technologies.

*Date:* July 12, 2021.

*Time:* 10:00 a.m. to 6:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852 (Virtual Meeting).

*Contact Person:* Mirela Milescu, Ph.D., Scientific Review Officer, Scientific Review Branch, Division of Extramural Activities, NINDS/NIH, NSC, 6001 Executive Blvd., Suite 3208, MSC 9529, Rockville, MD 20852, [mirela.milescu@nih.gov](mailto:mirela.milescu@nih.gov).

*Name of Committee:* National Institute of Neurological Disorders and Stroke Special Emphasis Panel; HEAL Initiative: Planning Studies for Initial Analgesic Development Initial Translational Efforts [Small Molecules and Biologics] (R34 Clinical Trial Not Allowed).

*Date:* July 15, 2021.

*Time:* 10:00 a.m. to 6:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852 (Virtual Meeting).

*Contact Person:* Bo-Shiun Chen, Ph.D., Scientific Review Officer, Scientific Review Branch, Division of Extramural Activities, NINDS/NIH, NSC, 6001 Executive Blvd., Suite 3208, MSC 9529, Rockville, MD 20852, (301) 496-9223, [bo-shiun.chen@nih.gov](mailto:bo-shiun.chen@nih.gov).

*Name of Committee:* National Institute of Neurological Disorders and Stroke Special Emphasis Panel; Review of Neurology and Neurosurgery R25 Programs.

*Date:* July 16, 2021.

*Time:* 12:00 p.m. to 5:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852 (Virtual Meeting).

*Contact Person:* William C. Benzing, Ph.D., Scientific Review Officer, Scientific Review Branch, Division of Extramural Activities, NINDS, NIH, NSC, 6001 Executive Blvd., Suite 3204, MSC 9529, Rockville, MD 20852, (301) 496-0660, [benzingw@mail.nih.gov](mailto:benzingw@mail.nih.gov).

(Catalogue of Federal Domestic Assistance Program Nos. 93.853, Clinical Research Related to Neurological Disorders; 93.854, Biological Basis Research in the Neurosciences, National Institutes of Health, HHS)

Dated: June 2, 2021.

**Tyeshia M. Roberson,**

*Program Analyst, Office of Federal Advisory Committee Policy.*

[FR Doc. 2021-11927 Filed 6-7-21; 8:45 am]

**BILLING CODE 4140-01-P**

## DEPARTMENT OF HOMELAND SECURITY

### U.S. Customs and Border Protection

[Docket No. USCBP-2021-0020]

#### Commercial Customs Operations Advisory Committee (COAC)

**AGENCY:** U.S. Customs and Border Protection (CBP), Department of Homeland Security (DHS).

**ACTION:** Committee management; notice of Federal advisory committee meeting.

**SUMMARY:** The Commercial Customs Operations Advisory Committee (COAC) will hold its quarterly meeting on Wednesday, June 23, 2021. The meeting will be open to the public via webinar only. There is no on-site, in-person option for this quarterly meeting.

**DATES:** The COAC will meet on Wednesday, June 23, 2021, from 1:00 p.m. to 5:00 p.m. EDT. Please note that the meeting may close early if the committee has completed its business. Comments must be submitted in writing no later than June 22, 2021.

**ADDRESSES:** The meeting will be held via webinar. The webinar link and conference number will be provided to all registrants by 5:00 p.m. EDT on June 22, 2021. For information on facilities or services for individuals with disabilities or to request special assistance at the meeting, contact Ms. Florence Constant-Gibson, Office of Trade Relations, U.S. Customs and Border Protection, at (202) 344-1440 as soon as possible.

**FOR FURTHER INFORMATION CONTACT:** Ms. Florence Constant-Gibson, Office of Trade Relations, U.S. Customs and Border Protection, 1300 Pennsylvania Avenue NW, Room 3.5A, Washington, DC 20229; or Ms. Valarie M. Neuhart, Designated Federal Officer, at (202) 344-1440.

**SUPPLEMENTARY INFORMATION:** Notice of this meeting is given under the authority of the Federal Advisory Committee Act, 5 U.S.C. Appendix. The Commercial Customs Operations Advisory Committee (COAC) provides advice to the Secretary of Homeland Security, the Secretary of the Treasury, and the Commissioner of U.S. Customs and Border Protection (CBP) on matters pertaining to the commercial operations of CBP and related functions within the Department of Homeland Security and the Department of the Treasury.

*Pre-registration:* For members of the public who plan to participate via webinar, please register online at <https://teregistration.cbp.gov/index.asp?w=228> by 2:00 p.m. EDT on June 22, 2021. For members of the public who are pre-registered to attend the webinar and later need to cancel, please do so by 2:00 p.m. EDT on June 21, 2021, utilizing the following link: <https://teregistration.cbp.gov/cancel.asp?w=228>.

Please feel free to share this information with other interested members of your organization or association.

To facilitate public participation, we are inviting public comment on the issues the committee will consider prior to the formulation of recommendations as listed in the Agenda section below.

Comments must be submitted in writing no later than June 22, 2021, and must be identified by Docket No. USCBP-2021-0020, and may be submitted by one (1) of the following methods:

- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the instructions for submitting comments.
- *Email:* [tradeevents@cbp.dhs.gov](mailto:tradeevents@cbp.dhs.gov). Include the docket number in the subject line of the message.
- *Mail:* Ms. Florence Constant-Gibson, Office of Trade Relations, U.S.

Customs and Border Protection, 1300 Pennsylvania Avenue NW, Room 3.5A, Washington, DC 20229.

**Instructions:** All submissions received must include the words “Department of Homeland Security” and the docket number (USCBP–2021–0020) for this action. Comments received will be posted without alteration at <http://www.regulations.gov>. Please do not submit personal information to this docket.

**Docket:** For access to the docket or to read background documents or comments, go to <http://www.regulations.gov> and search for Docket Number USCBP–2021–0020. To submit a comment, click the “Comment Now!” button located on the top-right hand side of the docket page.

There will be multiple public comment periods held during the meeting on June 23, 2021. Speakers are requested to limit their comments to two (2) minutes or less to facilitate greater participation. Please note that the public comment period for speakers may end before the time indicated on the schedule that is posted on the CBP web page, <http://www.cbp.gov/trade/stakeholder-engagement/coac>.

#### Agenda

The COAC will hear from the current subcommittees on the topics listed below and then will review, deliberate, provide observations, and formulate recommendations on how to proceed:

1. The Secure Trade Lanes Subcommittee will present the following updates: The Trusted Trader Working Group will provide an update on the progress of the White Paper on the Implementation of CTPAT Trade Compliance Requirements for Forced Labor; the In-Bond Working Group will provide an update on the progress with the technical enhancements being addressed through the Trade Support Network and the review of regulatory recommendations incorporated within the COAC In-Bond Modernization White Paper to create future efficiency and process development; the Export Modernization Working Group will present their White Paper on Export Operations for the 21st Century along with proposed recommendations; and, the Remote and Autonomous Cargo Processing Working Group will provide an update on the development of a draft White Paper identifying the potential impact of Remote and Autonomous Vehicles to CBP Cargo Processing Operations.

2. The Next Generation Facilitation Subcommittee will provide an update on the following working groups and task force activities: First, the Re-

Imagined Entry Processes (RIEP) Working Group has begun a series of deep-dive sessions to review the entire entry process and examine when entry data becomes available. The intent of these sessions is to determine the points along the supply-chain where the data is first available in order to enhance the facilitation and security of the entry process and may provide some strategic recommendations in this area. Next, the One U.S. Government Working Group will provide an update on the following key project: The automation of electronic documents that are currently required at time of entry and the Partner Government Agency Disclaim Handbook. Finally, CBP will provide an update on the progress of the E-Commerce and 21st Century Customs Framework Task Forces.

3. The Intelligent Enforcement Subcommittee will provide a status update on the following: The Bond Working Group will report on the continued work with CBP on the Monetary Guidelines of Setting Bond Amounts, the status of the risk-based bonding initiative, and recommendations on the eBond Pilot; the Antidumping/Countervailing Duty (AD/CVD) Working Group will discuss the ongoing challenges associated with the growing number of AD/CVD cases; the Intellectual Property Rights (IPR) Process Modernization Working Group will provide updates on past recommendations to further the modernization of IPR processes; and, the Forced Labor Working Group will provide an update related to the progress of the three subgroups outlined in the Statement of Work: Informed Compliance Fact Sheet Subgroup, Emerging Traceability Subgroup, and Forced Labor Report and Metrics Subgroup.

4. The Rapid Response Subcommittee will provide an update on the progress of its two working groups. First, the USMCA Working Group has identified specific topics for review with the USMCA Center as the anticipated publication of the new regulations approaches. The topics for discussion include export guidance, e-signatures, and the marking rules in part 102 of title 19 of the Code of Federal Regulations (19 CFR part 102). Second, the Broker Exam Modernization Working Group will provide an update on recent exam modernization activities.

Meeting materials will be available by June 21, 2021, at: <http://www.cbp.gov/trade/stakeholder-engagement/coac/coac-public-meetings>.

Dated: June 3, 2021.

**Valarie M. Neuhart,**

*Deputy Executive Director, Office of Trade Relations.*

[FR Doc. 2021–11950 Filed 6–7–21; 8:45 am]

**BILLING CODE 9111–14–P**

## DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR 5928–N–03]

### Notice of Continuation of Demonstration To Test Proposed New Method of Assessing the Physical Conditions of Voucher-Assisted Housing

**AGENCY:** Office of the Assistant Secretary for Public and Indian Housing, Department of Housing and Urban Development (HUD).

**ACTION:** Demonstration continuation.

**SUMMARY:** Through this notice, HUD announces the continuation of HUD’s demonstration to test the new method of assessing the physical condition of housing assisted by HUD vouchers (voucher-assisted housing) through October 1, 2022 and renews its call for additional Public Housing Authority (PHA) volunteers (eligible PHAs administering the Housing Choice Voucher (HCV) program). This continuation supports HUD’s ability to align the HCV program with the National Standards for the Physical Inspection of Real Estate (NSPIRE) physical inspection model and to assess the HCV program’s inspection protocol against this model. In addition, this notice updates the relevant participation provisions and selection criteria.

**DATES:** *Applicable date* July 4, 2021.

**FOR FURTHER INFORMATION CONTACT:**

Kevin Laviano, Assessment Manager, Office of Public and Indian Housing, Department of Housing and Urban Development, 550 12th Street SW, Suite 100, Washington, DC 20410–4000, telephone number 216–659–2193 (this is not a toll-free number) or via email to [NSPIREV@hud.gov](mailto:NSPIREV@hud.gov). Persons with hearing or speech impairments may contact the numbers above via TTY by calling the Federal Relay Service at 800–877–8339 (this is a toll-free number).

**SUPPLEMENTARY INFORMATION:** On May 4, 2016, HUD published a notice implementing the “Demonstration To Test Proposed New Method of Assessing the Physical Conditions of Voucher-Assisted Housing.”<sup>1</sup> On May 28, 2019,

<sup>1</sup> Notice of Demonstration to Test Proposed New Method of Assessing the Physical Conditions of Voucher-Assisted Housing, 81 FR 26759 (May 4,

HUD extended the demonstration for two years.<sup>2</sup> HUD has again decided to continue the demonstration to assess the improvements and alignment of the HCV inspection protocol. This continuation furthers the direction contained in the Joint Explanatory Statement accompanying the Consolidated Appropriations Act of 2016, Public Law 114–113, approved December 18, 2015, and the proposals set forth in the Economic Growth and Recovery, Regulatory Relief, and Consumer Protection Act of 2018, Public Law 115–174,<sup>3</sup> and the direction the Department has proposed in the Economic Growth, Regulatory Relief, and Consumer Protection Act: Implementation of National Standards for the Physical Inspection of Real Estate proposed rule.<sup>4</sup> HUD seeks to continue this demonstration to further evaluate the application of NSPIRE standards on the HCV inspection program. In addition, the program-specific requirements in the respective sections of the above-mentioned demonstration notices continue to apply, other than, those specific references to HUD's testing of the Uniform Physical Condition Standards for Vouchers (UPCS–V) related inspection protocols.<sup>5</sup>

Furthermore, HUD is lifting the three-year limitation to PHA participation contained in Section III, Part C., of the *Notice of Demonstration To Test Proposed New Method of Assessing the Physical Conditions of Voucher-Assisted*

2016) <https://www.federalregister.gov/documents/2016/05/04/2016-10460/notice-of-demonstration-to-test-proposed-new-method-of-assessing-the-physical-conditions-of>.

<sup>2</sup> *Notice of Continuation of Demonstration to Test Proposed New Method of Assessing the Physical Conditions of Voucher-Assisted Housing*, 84 FR 24416 (May 28, 2019) <https://www.federalregister.gov/documents/2019/05/28/2019-11059/notice-of-continuation-of-demonstration-to-test-proposed-new-method-of-assessing-the-physical>.

<sup>3</sup> The text of the *Economic Growth Act*, along with a summary prepared by the Congressional Research Service, can be found at <https://www.congress.gov/bill/115th-congress/senate-bill/2155/text>.

<sup>4</sup> See *Economic Growth Regulatory Relief and Consumer Protection Act: Implementation of National Standards for the Physical Inspection of Real Estate (NSPIRE)*, 86 FR 2582 (January 13, 2021) <https://www.federalregister.gov/documents/2021/01/13/2021-00098/economic-growth-regulatory-relief-and-consumer-protection-act-implementation-of-national-standards>.

<sup>5</sup> See *Notice of Demonstration to Test Proposed New Method of Assessing the Physical Conditions of Voucher-Assisted Housing*, para. III.C and *Notice of Continuation of Demonstration To Test Proposed New Method of Assessing the Physical Conditions of Voucher-Assisted Housing and Notice of Demonstration To Assess the National Standards for the Physical Inspection of Real Estate and Associated Protocols*, paras. III.A, III.B, III.C, III.D, and IV.

*Housing*.<sup>6</sup> Accordingly, current PHA volunteers may continue to participate beyond the previous three-year limitation and for the duration of the demonstration. HUD, therefore, extends this demonstration through October 1, 2022. HUD may amend the demonstration dates in response to changes in programmatic and environmental conditions through subsequent **Federal Register** notices.

HUD is also seeking additional volunteers for the demonstration. Interested PHAs should email HUD at [NSPIREV@hud.gov](mailto:NSPIREV@hud.gov) and provide the PHA name, PHA address, point of contact, phone number, and email address.

**Dominique Blom,**

*General Deputy Assistant Secretary for Public and Indian Housing.*

[FR Doc. 2021–11926 Filed 6–7–21; 8:45 am]

**BILLING CODE 4210–67–P**

## DEPARTMENT OF THE INTERIOR

### National Park Service

[NPS–WASO–CR–NR–NHL–NPS0031737; PPWOCRADP2, PCU00RP15.R50000 (212); OMB Control Number 1024–0276]

### Agency Information Collection Activities; National Historic Landmarks Nomination Form

**AGENCY:** National Park Service, Interior.

**ACTION:** Notice of Information Collection; request for comment.

**SUMMARY:** In accordance with the Paperwork Reduction Act of 1995, we, the National Park Service (NPS) are proposing to renew an information collection.

**DATES:** Interested persons are invited to submit comments on or before August 9, 2021.

**ADDRESSES:** Send your comments on this information collection request (ICR) by mail to Phadrea Ponds, NPS Information Collection Clearance Officer, 1201 Oakridge Drive Fort Collins, CO 80525; or by email at [phadrea\\_ponds@nps.gov](mailto:phadrea_ponds@nps.gov). Please reference Office of Management and Budget (OMB) Control Number 1024–0276 in the subject line of your comments.

**FOR FURTHER INFORMATION CONTACT:** To request additional information about this ICR, contact Patty Henry by email at [patty\\_henry@nps.gov](mailto:patty_henry@nps.gov), or by telephone at 202–354–2216. Please reference OMB Control Number 1024–0276 in the

subject line of your comment.

Individuals who are hearing or speech impaired may call the Federal Relay Service at 1–800–877–8339 for TTY assistance.

**SUPPLEMENTARY INFORMATION:** In accordance with the Paperwork Reduction Act of 1995, (PRA, 44 U.S.C. 3501 *et seq.*) and 5 CFR 1320.8(d)(1), all information collections require approval under the PRA. We may not conduct or sponsor and you are not required to respond to a collection of information unless it displays a currently valid OMB control number.

As part of our continuing effort to reduce paperwork and respondent burdens, we invite the public and other Federal agencies to comment on new, proposed, revised, and continuing collections of information. This helps us assess the impact of our information collection requirements and minimize the public's reporting burden. It also helps the public understand our information collection requirements and provide the requested data in the desired format.

We are especially interested in public comment addressing the following:

(1) Is Whether or not the collection of information is necessary for the proper performance of the functions of the NPS, including whether or not the information will have practical utility.

(2) The accuracy of our estimate of the burden for this collection of information, including the validity of the methodology and assumptions used.

(3) Ways to enhance the quality, utility, and clarity of the information to be collected.

(4) How might the NPS minimize the burden of this collection on the respondents, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of response.

Comments that you submit in response to this notice are a matter of public record. We will include or summarize each comment in our request to OMB to approve this ICR. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

*Abstract:* The NPS is authorized by the Historic Sites Act of 1935 (54 U.S.C.

320101 *et seq.*), National Historic Landmarks Program (36 CFR part 65), and the National Historic Preservation Act of 1966 (54 U.S.C. 300101 *et seq.*) to collect information on behalf of the Secretary of the Interior to evaluate properties applying for historic landmark designation. In accordance with the law and 36 CFR part 65, private citizens, businesses, and organizations; Federal agencies (FPO); State and local public agencies; State Historic Preservation Officers (SHPOs); territories; and Indian tribes (THPO) may submit nominations for National Historic Landmark (NHL) designation. All interested parties must inquire by letter or email about the eligibility of properties to be considered for NHL designation. The inquiry includes the name, location, brief description and historical summary of property. If determined eligible for consideration the respondent will use NPS Form 10-934, National Historic Landmarks Nomination, to nominate a property. The form is used to collect the following information related to the property:

- (1) Name and location
- (2) data related to the national significance of the property
- (3) any withholding of sensitive information
- (4) geographical data
- (5) statements and discussions about the national significance of the property
- (6) description and statement of integrity
- (7) major bibliographic references and
- (8) name, organization, address, phone number, and email of the person completing the form

*Title of Collection:* National Historic Landmarks Nomination Form.

*OMB Control Number:* 1024-0276.

*Form Number:* 10-934, National Historic Landmark Nomination.

*Type of Review:* Extension of a currently approved collection.

*Respondents/Affected Public:* Private individuals; Federal, state, tribal and local governments; businesses; educational institutions; and nonprofit organizations.

*Total Estimated Number of Annual Respondents:* 50.

*Total Estimated Number of Annual Responses:* 50.

*Estimated Completion Time per Response:* Average time 388 hours (Varies from 256 hours to 603 hours, depending on respondent and/or activity).

*Total Estimated Number of Annual Burden Hours:* 11,680.

*Respondent's Obligation:* Required to obtain or retain a benefit.

*Frequency of Collection:* On occasion.

*Total Estimated Annual Nonhour Burden Cost:* None.

An agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

The authority for this action is the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

**Phadrea Ponds,**

*Information Collection Clearance Officer,  
National Park Service.*

[FR Doc. 2021-11987 Filed 6-7-21; 8:45 am]

**BILLING CODE 4312-52-P**

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**DEPARTMENT OF THE INTERIOR**

**National Park Service**

**[NPS-WASO-NAGPRA-NPS0032041;  
PPWOCRADN0-PCU00RP14.R50000]**

**Notice of Inventory Completion:  
Arizona Museum of Natural History,  
Mesa, AZ**

**AGENCY:** National Park Service, Interior.

**ACTION:** Notice.

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**SUMMARY:** The Arizona Museum of Natural History has completed an inventory of human remains, in consultation with the appropriate Indian Tribes or Native Hawaiian organizations, and has determined that there is a cultural affiliation between the human remains and present-day Indian Tribes or Native Hawaiian organizations. Lineal descendants or representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains should submit a written request to the Arizona Museum of Natural History. If no additional requestors come forward, transfer of control of the human remains to the lineal descendants, Indian Tribes, or Native Hawaiian organizations stated in this notice may proceed.

**DATES:** Lineal descendants or representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains should submit a written request with information in support of the request to the Arizona Museum of Natural History at the address in this notice by July 8, 2021.

**FOR FURTHER INFORMATION CONTACT:** Melanie Deer, Arizona Museum of Natural History, 53 N Macdonald, Mesa, AZ 85201, telephone (480) 644-4381, email [melanie.deer@mesaz.gov](mailto:melanie.deer@mesaz.gov).

**SUPPLEMENTARY INFORMATION:** Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3003, of the completion of an inventory of human remains under the control of the Arizona Museum of Natural History, Mesa, AZ. The human remains were most likely removed from Maricopa County, AZ.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003(d)(3). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American human remains. The National Park Service is not responsible for the determinations in this notice.

**Consultation**

A detailed assessment of the human remains was made by the Arizona Museum of Natural History professional staff in consultation with representatives of the Gila River Indian Community of the Gila River Indian Reservation, Arizona, and the Salt River Pima-Maricopa Indian Community of the Salt River Reservation, Arizona.

**History and Description of the Remains**

In 2021, human remains representing, at minimum, one individual were removed from an unknown location most likely in Maricopa County, AZ. The human remains belong to an individual of undetermined age and sex. No known individual was identified. No associated funerary objects are present.

The human remains were discovered when the box in which they were housed was moved from the Historic Post Office. As information on the box references Scottsdale, AZ, the Arizona Museum of Natural History has determined that the human remains most likely were removed from Maricopa County. According to archeological understanding, the region where these human remains were most likely collected was occupied by the Hohokam Material Culture in prehistoric times. As the primary collection of the Arizona Museum of Natural History focuses on Hohokam Material Culture, the Arizona Museum of Natural History has determined that the human remains most likely are Hohokam.

According to archeological and ethnographic understandings, the Hohokam Material Culture people were ancestors to the Four Southern Tribes of Arizona (Ak-Chin Indian Community [previously listed as Ak Chin Indian Community of the Maricopa (Ak Chin) Indian Reservation, Arizona]; Gila River



Indian Community of the Gila River Indian Reservation, Arizona; Salt River-Pima Maricopa Indian Community of the Salt River Reservation, Arizona; and Tohono O'odham Nation of Arizona) and the Hopi Tribe of Arizona. The Four Southern Tribes of Arizona divide their ancestral lands such that each Tribe oversees those portions closest to their reservation.

#### Determinations Made by the Arizona Museum of Natural History

Officials of the Arizona Museum of Natural History have determined that:

- Pursuant to 25 U.S.C. 3001(9), the human remains described in this notice represent the physical remains of one individual of Native American ancestry.
- Pursuant to 25 U.S.C. 3001(2), there is a relationship of shared group identity that can be reasonably traced between the Native American human remains and the Ak-Chin Indian Community [previously listed as Ak Chin Indian Community of the Maricopa (Ak Chin) Indian Reservation, Arizona]; Gila River Indian Community of the Gila River Indian Reservation, Arizona; Hopi Tribe of Arizona; Salt River-Pima Maricopa Indian Community of the Salt River Reservation, Arizona; and the Tohono O'odham Nation of Arizona (hereafter referred to as "The Tribes").

#### Additional Requestors and Disposition

Lineal descendants or representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains should submit a written request with information in support of the request to Melanie Deer, Arizona Museum of Natural History, 53 N Macdonald, Mesa, AZ 85201, telephone (480) 644-4381, email [melanie.deer@mesaaz.gov](mailto:melanie.deer@mesaaz.gov), by July 8, 2021. After that date, if no additional requestors have come forward, transfer of control of the human remains to The Tribes may proceed.

The Arizona Museum of Natural History is responsible for notifying The Tribes that this notice has been published.

Dated: May 25, 2021.

#### Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2021-11947 Filed 6-7-21; 8:45 am]

BILLING CODE 4312-52-P

## DEPARTMENT OF THE INTERIOR

### National Park Service

[NPS-WASO-NAGPRA-NPS0032042; PPWOCRADNO-PCU00RP14.R50000]

#### Notice of Intent To Repatriate Cultural Items: The University of California, Berkeley, Berkeley, CA

AGENCY: National Park Service, Interior.

ACTION: Notice.

**SUMMARY:** The University of California, Berkeley, in consultation with the appropriate Indian Tribes or Native Hawaiian organizations, has determined that the cultural items listed in this notice meet the definition of unassociated funerary objects and objects of cultural patrimony, respectively. Lineal descendants or representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to claim these cultural items should submit a written request to the University of California, Berkeley. If no additional claimants come forward, transfer of control of the cultural items to the lineal descendants, Indian Tribes, or Native Hawaiian organizations stated in this notice may proceed.

**DATES:** Lineal descendants or representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to claim these cultural items should submit a written request with information in support of the claim to the University of California, Berkeley at the address in this notice by July 8, 2021.

**FOR FURTHER INFORMATION CONTACT:** Dr. Thomas Torma; The University of California, Berkeley; 119 California Hall, Berkeley, CA 94720-1500, telephone: (510) 672-5388, email: [t.torma@berkeley.edu](mailto:t.torma@berkeley.edu).

**SUPPLEMENTARY INFORMATION:** Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3005, of the intent to repatriate cultural items under the control of the University of California, Berkeley, Berkeley, CA, that meet the definition of unassociated funerary objects and objects of cultural patrimony, respectively, under 25 U.S.C. 3001.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003(d)(3). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American cultural items. The National

Park Service is not responsible for the determinations in this notice.

#### History and Description of the Cultural Items

In 1940 or 1941, one lot of beans was removed from Santa Clara Pueblo in Rio Arriba County, NM. At that time, George F. Carter collected the beans from representatives of the "East Delaware Indians of Okla.", a term used for the modern Delaware Tribe of Indians. The exact breed of bean is unknown. The one object of cultural patrimony is one vial of beans.

In c. 1900, one hank of wampum was removed from an unknown location in Nebraska. It was collected by Frank B. Hutchens "from Indians who were being relocated by the government." The items were made of shell, and the place of manufacture was recorded as New Jersey. The one object of cultural patrimony is a hank of wampum consisting of 27 strands of cylindrical shell beads.

In 1904, 1,895 funerary objects were removed from the vicinity of Abbott Farm in Mercer County, NJ. These items were collected by Ernest Volk as part of his annual excavations in the area and sent to the University of California. The items collected were from funerary sites south of Trenton that stretch along Crosswicks Creek, from the Delaware River to Yardville, NJ. The 1,895 unassociated funerary objects are: 842 items described as "lithics and pottery"; three sets of faunal remains; 62 items described as "hammerstones and flakes"; 511 lithics; 21 items described as "lithics and mica"; 27 items described as "lithics, pottery, and bone"; 115 items described as "lithics, pottery, and charcoal"; 93 items described as "lithics, pottery, antler, and pipe"; 220 items described as "lithics, pottery, bone, charcoal and botanical remains"; and one piece of pottery.

#### Determinations Made by the University of California, Berkeley

Officials of the University of California, Berkeley have determined that:

- Pursuant to 25 U.S.C. 3001(3)(B), the 1,895 cultural items collected from New Jersey and described above are reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony and are believed, by a preponderance of the evidence, to have been removed from a specific burial site of a Native American individual.

- Pursuant to 25 U.S.C. 3001(3)(D), the two cultural items collected from



New Mexico and Nebraska and described above have ongoing historical, traditional, or cultural importance central to the Native American group or culture itself, rather than property owned by an individual.

• Pursuant to 25 U.S.C. 3001(2), there is a relationship of shared group identity that can be reasonably traced between the unassociated funerary objects and objects of cultural patrimony and the Delaware Nation, Oklahoma; Delaware Tribe of Indians; and the Stockbridge Munsee Community, Wisconsin (hereafter referred to as “The Tribes”).

#### Additional Requestors and Disposition

Lineal descendants or representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to claim these cultural items should submit a written request with information in support of the claim to Dr. Thomas Torma, The University of California, Berkeley, 119 California Hall, Berkeley, CA 94720–1500, telephone (510) 672–5388, email [t.torma@berkeley.edu](mailto:t.torma@berkeley.edu), by July 8, 2021. After that date, if no additional claimants have come forward, transfer of control of the unassociated funerary objects and objects of cultural patrimony to The Tribes may proceed.

The University of California, Berkeley is responsible for notifying The Tribes that this notice has been published.

Dated: May 25, 2021.

**Melanie O'Brien,**

*Manager, National NAGPRA Program.*

[FR Doc. 2021–11946 Filed 6–7–21; 8:45 am]

**BILLING CODE 4312–52–P**

## DEPARTMENT OF THE INTERIOR

### National Park Service

[NPS–WASO–NAGPRA–NPS0032049; PPWOCRADN0–PCU00RP14.R50000]

#### Notice of Inventory Completion: Indiana State Museum and Historic Sites Corporation, State of Indiana, Indianapolis, IN

**AGENCY:** National Park Service, Interior.

**ACTION:** Notice.

**SUMMARY:** The Indiana State Museum and Historic Sites Corporation, State of Indiana (ISMHS) has completed an inventory of human remains, in consultation with the appropriate Indian Tribes or Native Hawaiian organizations, and has determined that there is no cultural affiliation between the human remains and any present-day Indian Tribes or Native Hawaiian organizations. Representatives of any

Indian Tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains should submit a written request to the ISMHS. If no additional requestors come forward, transfer of control of the human remains to the Indian Tribes or Native Hawaiian organizations stated in this notice may proceed.

**DATES:** Representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains should submit a written request with information in support of the request to the ISMHS at the address in this notice by July 8, 2021.

**FOR FURTHER INFORMATION CONTACT:** Michele Greenan, Indiana State Museum and Historic Sites Corporation, 650 West Washington Street, Indianapolis, IN 46214, telephone (317) 473–0836, email [mgreenan@indianamuseum.org](mailto:mgreenan@indianamuseum.org).

**SUPPLEMENTARY INFORMATION:** Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3003, of the completion of an inventory of human remains under the control of the Indiana State Museum and Historic Sites Corporation, State of Indiana, Indianapolis, IN. The human remains were removed from Ferdinand State Forest, Dubois County, IN.

This notice is published as part of the National Park Service’s administrative responsibilities under NAGPRA, 25 U.S.C. 3003(d)(3) and 43 CFR 10.11(d). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American human remains. The National Park Service is not responsible for the determinations in this notice.

#### Consultation

A detailed assessment of the human remains was made by ISMHS professional staff in consultation with representatives of the Absentee-Shawnee Tribe of Indians of Oklahoma; Bad River Band of the Lake Superior Tribe of Chippewa Indians of the Bad River Reservation, Wisconsin; Bay Mills Indian Community, Michigan; Chippewa Cree Indians of the Rocky Boy’s Reservation, Montana (previously listed as Chippewa-Cree Indians of the Rocky Boy’s Reservation, Montana); Citizen Potawatomi Nation, Oklahoma; Delaware Nation, Oklahoma; Delaware Tribe of Indians; Eastern Shawnee Tribe of Oklahoma; Forest County Potawatomi Community, Wisconsin; Grand Traverse Band of Ottawa and Chippewa Indians,

Michigan; Hannahville Indian Community, Michigan; Keweenaw Bay Indian Community, Michigan; Kickapoo Traditional Tribe of Texas; Kickapoo Tribe of Indians of the Kickapoo Reservation in Kansas; Kickapoo Tribe of Oklahoma; Lac Courte Oreilles Band of Lake Superior Chippewa Indians of Wisconsin; Lac du Flambeau Band of Lake Superior Chippewa Indians of the Lac du Flambeau Reservation of Wisconsin; Lac Vieux Desert Band of Lake Superior Chippewa Indians of Michigan; Match-e-be-nash-she-wish Band of Pottawatomi Indians of Michigan; Miami Tribe of Oklahoma; Minnesota Chippewa Tribe, Minnesota (Six component reservations: Bois Forte Band (Nett Lake); Fond du Lac Band; Grand Portage Band; Leech Lake Band; Mille Lacs Band; White Earth Band); Nottawaseppi Huron Band of the Potawatomi, Michigan (previously listed as Huron Potawatomi, Inc.); Ottawa Tribe of Oklahoma; Peoria Tribe of Indians of Oklahoma; Pokagon Band of Potawatomi Indians, Michigan and Indiana; Prairie Band Potawatomi Nation (previously listed as Prairie Band of Potawatomi Nation, Kansas); Red Cliff Band of Lake Superior Chippewa Indians of Wisconsin; Red Lake Band of Chippewa Indians, Minnesota; Saginaw Chippewa Indian Tribe of Michigan; Sault Ste. Marie Tribe of Chippewa Indians, Michigan; Shawnee Tribe; Sokaogon Chippewa Community, Wisconsin; St. Croix Chippewa Indians of Wisconsin; Turtle Mountain Band of Chippewa Indians of North Dakota; United Keetoowah Band of Cherokee Indians in Oklahoma; and the Wyandotte Nation (hereafter referred to as “The Consulted Tribes.”)

#### History and Description of the Remains

On March 30, 2009, human remains representing, at minimum, one individual were recovered in association with looting activity at Ferdinand State Park in Dubois County, IN. Conservation officers were contacted, and the Indiana Department of Historic Preservation and Archaeology (DHPA) assigned accidental discovery number 2009019 to the looting area and associated materials. An archeologist from the Indiana Department of Natural Resources, Division of Forestry, was then contacted to assess the looting. Based on the archeologist’s assessment, no other information could be determined, and it appeared that the looters quickly deposited/discarded the material as they were retreating. In July 2013, the human remains were transferred to the ISMHS.

The human remains consist of two teeth—a lower left molar and right first molar. The roots were gone taphonomically. The wear patterns indicate that teeth belong to an adult. Determinations of sex, pathology or other traits were not possible. No known individuals were identified. No associated funerary objects are present.

At the ISMHS, staff from the University of Indianapolis assessed the human remains and determined that they could be Native American. Taking into account the archeological history of the area, the ISMHS has determined that the human remains are more likely than not Native American.

#### **Determinations Made by the Indiana State Museum and Historic Sites Corporation, State of Indiana**

Officials of the Indiana State Museum and Historic Sites Corporation, State of Indiana have determined that:

- Pursuant to 25 U.S.C. 3001(9), the human remains described in this notice are Native American based on analysis of the teeth and the archeological history of the find locality.

- Pursuant to 25 U.S.C. 3001(9), the human remains described in this notice represent the physical remains of one individual of Native American ancestry.

- Pursuant to 25 U.S.C. 3001(2), a relationship of shared group identity cannot be reasonably traced between the Native American human remains and any present-day Indian Tribe.

- Treaties, Acts of Congress, or Executive Orders, indicate that the land from which the Native American human remains were removed is the aboriginal land of the Absentee-Shawnee Tribe of Indians of Oklahoma; Bad River Band of the Lake Superior Tribe of Chippewa Indians of the Bad River Reservation, Wisconsin; Bay Mills Indian Community, Michigan; Chippewa Cree Indians of the Rocky Boy's Reservation, Montana (previously listed as Chippewa-Cree Indians of the Rocky Boy's Reservation, Montana); Citizen Potawatomi Nation, Oklahoma; Delaware Nation, Oklahoma; Forest County Potawatomi Community, Wisconsin; Grand Traverse Band of Ottawa and Chippewa Indians, Michigan; Hannahville Indian Community, Michigan; Keweenaw Bay Indian Community, Michigan; Kickapoo Traditional Tribe of Texas; Kickapoo Tribe of Indians of the Kickapoo Reservation in Kansas; Kickapoo Tribe of Oklahoma; Lac Courte Oreilles Band of Lake Superior Chippewa Indians of Wisconsin; Lac du Flambeau Band of Lake Superior Chippewa Indians of the Lac du Flambeau Reservation of Wisconsin; Lac Vieux Desert Band of

Lake Superior Chippewa Indians of Michigan; Match-e-be-nash-she-wish Band of Pottawatomi Indians of Michigan; Miami Tribe of Oklahoma; Minnesota Chippewa Tribe, Minnesota (Six component reservations: Bois Forte Band (Nett Lake); Fond du Lac Band; Grand Portage Band; Leech Lake Band; Mille Lacs Band; White Earth Band); Nottawaseppi Huron Band of the Potawatomi, Michigan (previously listed as Huron Potawatomi, Inc.); Ottawa Tribe of Oklahoma; Peoria Tribe of Indians of Oklahoma; Pokagon Band of Potawatomi Indians, Michigan and Indiana; Prairie Band Potawatomi Nation (previously listed as Prairie Band of Potawatomi Nation, Kansas); Red Cliff Band of Lake Superior Chippewa Indians of Wisconsin; Red Lake Band of Chippewa Indians, Minnesota; Saginaw Chippewa Indian Tribe of Michigan; Sault Ste. Marie Tribe of Chippewa Indians, Michigan; Shawnee Tribe; Sokaogon Chippewa Community, Wisconsin; St. Croix Chippewa Indians of Wisconsin; Turtle Mountain Band of Chippewa Indians of North Dakota; and the Wyandotte Nation (hereafter referred to as "The Tribes").

- Pursuant to 43 CFR 10.11(c)(1), the disposition of the human remains may be to The Tribes.

#### **Additional Requestors and Disposition**

Representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains should submit a written request with information in support of the request to Michele Greenan, Indiana State Museum and Historic Sites, Corporation, 650 West Washington St., Indianapolis, IN 46204, telephone (317) 473-0836, email [mgreenan@indianamuseum.org](mailto:mgreenan@indianamuseum.org), by July 8, 2021. After that date, if no additional requestors have come forward, transfer of control of the human remains to The Tribes may proceed.

The Indiana State Museum and Historic Sites Corporation, State of Indiana is responsible for notifying The Consulted Tribes that this notice has been published.

Dated: May 25, 2021.

**Melanie O'Brien,**

*Manager, National NAGPRA Program.*

[FR Doc. 2021-11941 Filed 6-7-21; 8:45 am]

**BILLING CODE 4312-52-P**

## **DEPARTMENT OF THE INTERIOR**

### **National Park Service**

[NPS-WASO-NAGPRA-NPS0032048; PPWOCRADNO-PCU00RP14.R50000]

#### **Notice of Inventory Completion: Metropolitan Park District of the Toledo Area, Toledo, OH**

**AGENCY:** National Park Service, Interior.

**ACTION:** Notice.

**SUMMARY:** The Metropolitan Park District of the Toledo Area (Metroparks Toledo) has completed an inventory of human remains and associated funerary objects, in consultation with the appropriate Indian Tribes or Native Hawaiian organizations, and has determined that there is no cultural affiliation between the human remains and associated funerary objects and any present-day Indian Tribes or Native Hawaiian organizations. Representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains and associated funerary objects should submit a written request to Metroparks Toledo. If no additional requestors come forward, transfer of control of the human remains and associated funerary objects to the Indian Tribes or Native Hawaiian organizations stated in this notice may proceed.

**DATES:** Representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains and associated funerary objects should submit a written request with information in support of the request to Metroparks Toledo at the address in this notice by July 8, 2021.

**FOR FURTHER INFORMATION CONTACT:** Joseph Fausnaugh, Metroparks of the Toledo Area, 5100 West Central Avenue, Toledo, OH 43615, telephone (419) 407-9700, email [joe.fausnaugh@metroparkstoledo.com](mailto:joe.fausnaugh@metroparkstoledo.com).

**SUPPLEMENTARY INFORMATION:** Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3003, of the completion of an inventory of human remains and associated funerary objects under the control of the Metropolitan Park District of the Toledo Area, Toledo, OH. The human remains and associated funerary objects were removed from the Fore Site (33LU0133) in the City of Maumee, Lucas County, OH.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25

U.S.C. 3003(d)(3) and 43 CFR 10.11(d). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American human remains and associated funerary objects. The National Park Service is not responsible for the determinations in this notice.

### Consultation

A detailed assessment of the human remains was made for Metroparks Toledo by The Mannik Smith Group, Inc. professional staff in consultation with representatives of the Absentee-Shawnee Tribe of Indians of Oklahoma; Bay Mills Indian Community, Michigan; Delaware Nation, Oklahoma; Delaware Tribe of Indians; Eastern Shawnee Tribe of Oklahoma; Forest County Potawatomi Community, Wisconsin; Grand Traverse Band of Ottawa and Chippewa Indians, Michigan; Lac Vieux Desert Band of Lake Superior Chippewa Indians of Michigan; Little Traverse Bay Bands of Odawa Indians, Michigan; Match-e-be-nash-she-wish Band of Pottawatomi Indians of Michigan; Miami Tribe of Oklahoma; Minnesota Chippewa Tribe, Minnesota (Mille Lacs Band); Nottawaseppi Huron Band of the Potawatomi, Michigan [previously listed as Huron Potawatomi, Inc.]; Pokagon Band of Potawatomi Indians, Michigan and Indiana; Saginaw Chippewa Indian Tribe of Michigan; Sault Ste. Marie Tribe of Chippewa Indians, Michigan; Shawnee Tribe, Tonawanda Band of Seneca [previously listed as Tonawanda Band of Seneca Indians of New York]; and the Wyandotte Nation (hereafter referred to as "The Consulted Tribes").

### History and Description of the Remains

Between May 18 and June 19, 1987, human remains representing, at minimum, two individuals were removed from the Fore Site (33LU0133) in Lucas County, OH. The Fore Site was excavated by archeologists from Heidelberg College in 1986 and 1987. During the 1987 field season, a burial feature was excavated. The burial contained one individual. Based on artifacts contained in the feature, the burial was dated to the Young Phase of the Late Woodland period (ca. 1050–800 B.P.), part of the Western Basin Tradition culture as described by archeologists. No radiometric dating of any materials from the feature was undertaken. In addition to the burial, the human remains of one individual were recovered from another stratum. No known individuals were identified. The 2,828 associated funerary objects include: One fossilized crinoid bead, 594 pieces of lithic debitage, cores, and

tools made of Dundee/Stoney Creek, Ten Mile Creek, Bayport, Cedarville/Guelph, Delaware, Upper Mercer, Upper Mercer Nellie Variety, Greywacke, Onondaga, Quartzite, Local Devonian Limestone, Flint Ridge, and Pipe Creek cherts, one ground stone tool made of igneous rock, three projectile points made of Flint Ridge and Bayport cherts, four fire-cracked rocks made of igneous rock and limestone, 62 unmodified natural rocks, 408 fired and unfired clay sherds, four pottery temper fragments, 1,408 faunal remains representing deer, cow, rabbit, raccoon, squirrel, turtle, unidentified rodents, unidentified birds, unidentified reptiles, and shell fragments, two burned nut fragments, 276 charcoal fragments, one bag of soil with numerous small charcoal fragments, five slag pieces, one nail fragment, three unidentified ferrous metal fragments, 53 brick fragments, and two whiteware sherds.

Following the excavations, all the materials removed from the Fore Site were taken to the Heidelberg College Archaeology Laboratory in Tiffin, Ohio. A report of investigations for the 1987 field season at the Fore Site was completed by Dr. G. Michael Pratt in the spring of 1988. The Fore Site collection remained at Heidelberg College (now Heidelberg University) until the summer of 2017, when the university eliminated its anthropology program. At that time, all archeological collections from Metroparks Toledo-owned property were returned to Metroparks Toledo. Metroparks Toledo then negotiated an agreement with the Ohio History Connection (OHC) in Columbus to have the OHC permanently store Metroparks Toledo's archeological collections in its archeological curation facility (which meets the Secretary of the Interior's standards [36 CFR 79] for such facilities).

### Determinations Made by the Metropolitan Park District of the Toledo Area

Officials of the Metropolitan Park District of the Toledo Area have determined that:

- Pursuant to 25 U.S.C. 3001(9), the human remains described in this notice are Native American based on archeological context, biological evidence, museum, and lab records.
- Pursuant to 25 U.S.C. 3001(9), the human remains described in this notice represent the physical remains of two individuals of Native American ancestry.
- Pursuant to 25 U.S.C. 3001(3)(A), the 2,828 objects described in this notice are reasonably believed to have been placed with or near individual

human remains at the time of death or later as part of the death rite or ceremony.

- Pursuant to 25 U.S.C. 3001(2), a relationship of shared group identity cannot be reasonably traced between the Native American human remains and associated funerary objects and any present-day Indian Tribe.

- According to final judgments of the Indian Claims Commission or the Court of Federal Claims, the land from which the Native American human remains were removed is the aboriginal land of the Ottawa Tribe of Oklahoma.

- Treaties, Acts of Congress, or Executive Orders, indicate that the land from which the Native American human remains and associated funerary objects were removed is the aboriginal land of the Absentee-Shawnee Tribe of Indians of Oklahoma; Bad River Band of the Lake Superior Tribe of Chippewa Indians of the Bad River Reservation, Wisconsin; Bay Mills Indian Community, Michigan; Chippewa Cree Indians of the Rocky Boy's Reservation, Montana [previously listed as Chippewa-Cree Indians of the Rocky Boy's Reservation, Montana]; Citizen Potawatomi Nation, Oklahoma; Delaware Nation, Oklahoma; Forest County Potawatomi Community, Wisconsin; Grand Traverse Band of Ottawa and Chippewa Indians, Michigan; Hannahville Indian Community, Michigan; Keweenaw Bay Indian Community, Michigan; Kickapoo Traditional Tribe of Texas; Kickapoo Tribe of Indians of the Kickapoo Reservation in Kansas; Kickapoo Tribe of Oklahoma; Lac Courte Oreilles Band of Lake Superior Chippewa Indians of Wisconsin; Lac du Flambeau Band of Lake Superior Chippewa Indians of the Lac du Flambeau Reservation of Wisconsin; Lac Vieux Desert Band of Lake Superior Chippewa Indians of Michigan; Match-e-be-nash-she-wish Band of Pottawatomi Indians of Michigan; Miami Tribe of Oklahoma; Minnesota Chippewa Tribe, Minnesota (Six component reservations: Bois Forte Band (Nett Lake); Fond du Lac Band; Grand Portage Band; Leech Lake Band; Mille Lacs Band; White Earth Band); Nottawaseppi Huron Band of the Potawatomi, Michigan [previously listed as Huron Potawatomi, Inc.]; Ottawa Tribe of Oklahoma; Peoria Tribe of Indians of Oklahoma; Pokagon Band of Potawatomi Indians, Michigan and Indiana; Prairie Band Potawatomi Nation [previously listed as Prairie Band of Potawatomi Nation, Kansas]; Red Cliff Band of Lake Superior Chippewa Indians of Wisconsin; Red Lake Band of Chippewa Indians, Minnesota; Saginaw Chippewa Indian Tribe of Michigan;

Sault Ste. Marie Tribe of Chippewa Indians, Michigan; Shawnee Tribe; Sokaogon Chippewa Community, Wisconsin; St. Croix Chippewa Indians of Wisconsin; Turtle Mountain Band of Chippewa Indians of North Dakota; and the Wyandotte Nation (hereafter referred to as “The Tribes”).

- Pursuant to 43 CFR 10.11(c)(1), the disposition of the human remains and associated funerary objects may be to The Tribes.

#### Additional Requestors and Disposition

Representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains and associated funerary objects should submit a written request with information in support of the request to Joseph Fausnaugh, Metroparks of the Toledo Area, 5100 West Central Avenue, Toledo, OH 42615, telephone (419) 407-9700, email [joe.fausnaugh@metroparkstoledo.com](mailto:joe.fausnaugh@metroparkstoledo.com), by July 8, 2021. After that date, if no additional requestors have come forward, transfer of control of the human remains and associated funerary objects to The Tribes may proceed.

The Metropolitan Park District of the Toledo Area is responsible for notifying The Tribes that this notice has been published.

Dated: May 25, 2021.

**Melanie O'Brien,**

*Manager, National NAGPRA Program.*

[FR Doc. 2021-11942 Filed 6-7-21; 8:45 am]

**BILLING CODE 4312-52-P**

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## DEPARTMENT OF THE INTERIOR

### National Park Service

[NPS-WASO-NAGPRA-NPS0032045; PPWOCRADNO-PCU00RP14.R50000]

#### Notice of Inventory Completion: University of Pennsylvania Museum of Archaeology and Anthropology, Philadelphia, PA

**AGENCY:** National Park Service, Interior.  
**ACTION:** Notice.

**SUMMARY:** The University of Pennsylvania Museum of Archaeology and Anthropology has completed an inventory of human remains and associated funerary object, in consultation with the appropriate Indian Tribes or Native Hawaiian organizations, and has determined that there is a cultural affiliation between the human remains and associated funerary object and present-day Indian Tribes or Native Hawaiian organizations. Lineal descendants or representatives of any

Indian Tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains and associated funerary object should submit a written request to the University of Pennsylvania Museum of Archaeology and Anthropology. If no additional requestors come forward, transfer of control of the human remains and associated funerary object to the lineal descendants, Indian Tribes, or Native Hawaiian organizations stated in this notice may proceed.

**DATES:** Lineal descendants or representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains and associated funerary object should submit a written request with information in support of the request to the University of Pennsylvania Museum of Archaeology and Anthropology at the address in this notice by July 8, 2021.

**FOR FURTHER INFORMATION CONTACT:** Dr. Christopher Woods, Williams Director, University of Pennsylvania Museum of Archaeology and Anthropology, 3260 South Street, Philadelphia, PA 19104-6324, telephone (215) 898-4050, email [director@pennmuseum.org](mailto:director@pennmuseum.org).

**SUPPLEMENTARY INFORMATION:** Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3003, of the completion of an inventory of human remains and associated funerary object under the control of the University of Pennsylvania Museum of Archaeology and Anthropology, Philadelphia, PA. The human remains and associated funerary object were removed from Lalor and Wright Fields site (28ME10), Mercer County, NJ.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003(d)(3). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American human remains and associated funerary object. The National Park Service is not responsible for the determinations in this notice.

#### Consultation

A detailed assessment of the human remains was made by the University of Pennsylvania Museum of Archaeology and Anthropology professional staff in consultation with representatives of the Delaware Nation, Oklahoma; Delaware Tribe of Indians; and the Stockbridge Munsee Community, Wisconsin (hereafter referred to as “The Tribes”).

#### History and Description of the Remains

In November 1890, human remains representing, at minimum, two individuals (record numbers 8286 and 8292) were removed from “ash pits” near Trenton, Mercer County, NJ, by Ernest Volk (b. 1845–d. 1919), according to the Museum's records. At the time, Volk was an archeologist working under the aegis of the Harvard Peabody Museum of Archaeology and Ethnology. Based on what is known about Volk's fieldwork activities (as gleaned from his notes of November 1890 and other, published information), these human remains most likely were removed from Lalor and Wrights Field site (28ME10). According to Volk's records, he dug two trenches at Lalor Field during November 3–8, 1890. In one, he found features that he labeled “Potholes.” Volk described the presence of bone, ash or charcoal (or both), lithics, pottery, and faunal remains. Based on this description, the Museum's records, and consultation information, the above listed human remains most likely were removed from these “Potholes” or from other features located during the Lalor Field excavations. That same month, these human remains were gifted to the University of Pennsylvania Museum of Archaeology and Anthropology by Carl Edelheim and Clarence S. Bement, both of whom were associated with the University of Pennsylvania and its museum. How the human remains came to be in the possession of Edelheim and Bement is unclear. The human remains—cranial elements—belong to two adults of undetermined sex. No known individuals were identified. The one associated funerary object is an unidentified animal bone (record number 8290).

The archeological evidence from Lalor Field indicates this site dates to the Middle and Late Woodland Period. These human remains were determined to be Native American based on their archeological context and collection history. Archeological, consultation, historical, and linguistic information, and oral tradition support a cultural affiliation of this Woodland site with the Delaware (Lenape). Today, the Lenape are represented by three Indian Tribes—the Delaware Nation, Oklahoma; Delaware Tribe of Indians; and the Stockbridge Munsee Community, Wisconsin.

#### Determinations Made by the University of Pennsylvania Museum of Archaeology and Anthropology

Officials of the University of Pennsylvania Museum of Archaeology

and Anthropology have determined that:

- Pursuant to 25 U.S.C. 3001(9), the human remains described in this notice represent the physical remains of two individuals of Native American ancestry.

- Pursuant to 25 U.S.C. 3001(3)(A), the one object described in this notice is reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony.

- Pursuant to 25 U.S.C. 3001(2), there is a relationship of shared group identity that can be reasonably traced between the Native American human remains and associated funerary object and The Tribes.

#### Additional Requestors and Disposition

Lineal descendants or representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains and associated funerary object should submit a written request with information in support of the request to Dr. Christopher Woods, Williams Director, University of Pennsylvania Museum of Archaeology and Anthropology, 3260 South Street, Philadelphia, PA 19104-6324, telephone (215) 898-4050, email [director@pennmuseum.org](mailto:director@pennmuseum.org), by July 8, 2021. After that date, if no additional requestors have come forward, transfer of control of the human remains and associated funerary object to The Tribes may proceed.

The University of Pennsylvania Museum of Archaeology and Anthropology is responsible for notifying The Tribes that this notice has been published.

Dated: May 25, 2021.

**Melanie O'Brien,**

*Manager, National NAGPRA Program.*

[FR Doc. 2021-11943 Filed 6-7-21; 8:45 am]

BILLING CODE 4312-52-P

## DEPARTMENT OF THE INTERIOR

### National Park Service

[NPS-WASO-NAGPRA-NPS0032044;  
PPWOCRADNO-PCU00RP14.R50000]

#### Notice of Intent To Repatriate Cultural Items: University of Pennsylvania Museum of Archaeology and Anthropology, Philadelphia, PA

**AGENCY:** National Park Service, Interior.

**ACTION:** Notice.

**SUMMARY:** The University of Pennsylvania Museum of Archaeology and Anthropology, in consultation with

the appropriate Indian Tribes or Native Hawaiian organizations, has determined that the cultural items listed in this notice meet the definition of unassociated funerary objects. Lineal descendants or representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to claim these cultural items should submit a written request to the University of Pennsylvania Museum of Archaeology and Anthropology. If no additional claimants come forward, transfer of control of the cultural items to the lineal descendants, Indian Tribes, or Native Hawaiian organizations stated in this notice may proceed.

**DATES:** Lineal descendants or representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to claim these cultural items should submit a written request with information in support of the claim to the University of Pennsylvania Museum of Archaeology and Anthropology at the address in this notice by July 8, 2021.

**FOR FURTHER INFORMATION CONTACT:** Dr. Christopher Woods, Williams Director, University of Pennsylvania Museum of Archaeology and Anthropology, 3260 South Street, Philadelphia, PA 19104-6324, telephone (215) 898-4050, email [director@pennmuseum.org](mailto:director@pennmuseum.org).

**SUPPLEMENTARY INFORMATION:** Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3005, of the intent to repatriate cultural items under the control of the University of Pennsylvania Museum of Archaeology and Anthropology, Philadelphia, PA, that meet the definition of unassociated funerary objects under 25 U.S.C. 3001.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003(d)(3). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American cultural items. The National Park Service is not responsible for the determinations in this notice.

#### History and Description of the Cultural Items

At an unknown date, 12 cultural items were removed from a "sarcophagus 4 ft. below the surface" at an unidentified location near Trenton in Mercer County, NJ, by Charles C. Abbott (b. 1843-d. 1919). These 12 cultural items were donated to the Academy of Natural Sciences of Philadelphia most likely between 1876 and 1894. In 1876, Abbott removed a further 10 cultural

items from a grave at an unknown location near Trenton. Subsequently, these 10 cultural items were transferred to Samuel S. Haldeman. In September 1877, Haldeman's collection, including the 10 cultural objects, was donated to the Academy of Natural Sciences of Philadelphia.

In 1936/1937, collections from the Academy of Natural Sciences of Philadelphia were loaned to the University of Pennsylvania Museum of Archaeology and Anthropology, including the above enumerated 22 cultural items, and in 1997, these 22 cultural items were gifted to the Museum. The 22 unassociated funerary objects are two pottery sherds (record numbers 97-563-337 and 97-563-6473A), 10 animal and fish bones (record number 97-563-6473B), and 10 *marginella* shell beads (record number 97-563-1141).

Based on archeological, consultation, historical, linguistic, oral traditional, and geographic information, the cultural items date to the Woodland Period, and they were most likely connected to the Delaware (Lenape). Today, the Delaware (Lenape) are represented by three Indian Tribes—the Delaware Nation, Oklahoma; Delaware Tribe of Indians; and the Stockbridge Munsee Community, Wisconsin (hereafter referred to as "The Tribes").

#### Determinations Made by the University of Pennsylvania Museum of Archaeology and Anthropology

Officials of the University of Pennsylvania Museum of Archaeology and Anthropology have determined that:

- Pursuant to 25 U.S.C. 3001(3)(B), the 22 cultural items described above are reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony and are believed, by a preponderance of the evidence, to have been removed from a specific burial site of a Native American individual.

- Pursuant to 25 U.S.C. 3001(2), there is a relationship of shared group identity that can be reasonably traced between the unassociated funerary objects and The Tribes.

#### Additional Requestors and Disposition

Lineal descendants or representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to claim these cultural items should submit a written request with information in support of the claim to Dr. Christopher Woods, Williams Director, University of Pennsylvania Museum of Archaeology and

Anthropology, 3260 South Street, Philadelphia, PA 19104–6324, telephone (215) 898–4050, email [director@pennmuseum.org](mailto:director@pennmuseum.org), by July 8, 2021. After that date, if no additional claimants have come forward, transfer of control of the unassociated funerary objects to The Tribes may proceed.

The University of Pennsylvania Museum of Archaeology and Anthropology is responsible for notifying The Tribes that this notice has been published.

Dated: May 25, 2021.

**Melanie O'Brien,**

*Manager, National NAGPRA Program.*

[FR Doc. 2021–11944 Filed 6–7–21; 8:45 am]

BILLING CODE 4312–52–P

## DEPARTMENT OF THE INTERIOR

### National Park Service

[NPS–WASO–NAGPRA–NPS0032043;  
PPWOCRADN0–PCU00RP14.R50000]

#### Notice of Inventory Completion: The University of California, Berkeley; Berkeley, CA

**AGENCY:** National Park Service, Interior.  
**ACTION:** Notice.

**SUMMARY:** The University of California, Berkeley has completed an inventory of human remains and associated funerary objects, in consultation with the appropriate Indian Tribes or Native Hawaiian organizations, and has determined that there is a cultural affiliation between the human remains and associated funerary objects and present-day Indian Tribes or Native Hawaiian organizations. Lineal descendants or representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains and associated funerary objects should submit a written request to the University of California, Berkeley. If no additional requestors come forward, transfer of control of the human remains and associated funerary objects to the lineal descendants, Indian Tribes, or Native Hawaiian organizations stated in this notice may proceed.

**DATES:** Lineal descendants or representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains and associated funerary objects should submit a written request with information in support of the request to the University of California, Berkeley at the address in this notice by July 8, 2021.

**FOR FURTHER INFORMATION CONTACT:** Dr. Thomas Torma; University of California, Berkeley; Office of the Vice Chancellor for Research, 119 California Hall, Berkeley, CA 94720–1500, telephone (510) 672–5388, email [t.torma@berkeley.edu](mailto:t.torma@berkeley.edu).

**SUPPLEMENTARY INFORMATION:** Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3003, of the completion of an inventory of human remains and associated funerary objects under the control of the University of California, Berkeley, Berkeley, CA. The human remains and associated funerary objects were removed from Mercer County, NJ.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003(d)(3). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American human remains and associated funerary objects. The National Park Service is not responsible for the determinations in this notice.

#### Consultation

A detailed assessment of the human remains was made by the University of California, Berkeley professional staff in consultation with representatives of the Delaware Nation, Oklahoma; Delaware Tribe of Indians; and the Stockbridge Munsee Community, Wisconsin (hereafter referred to as "The Tribes").

#### History and Description of the Remains

In 1904, human remains representing, at minimum, four individuals were removed from Major Woodward's Farm and Squire Willey's Farm in Mercer County, NJ. They were collected by Ernest Volk as part of his annual excavations in the area. Although in most years during his 22-year-long study, Volk's work was done under the supervision of Frederick Ward Putnam at Harvard University, for some unknown reason, all the materials Volk collected in 1904 were sent to the University of California. The human remains belong to four individuals of unknown age and sex. No known individuals were identified. The 713 associated funerary objects are one axe; one set of faunal remains; 87 pieces of flake and cobble; 109 pieces of flake and gravel; 190 pieces of flake and comb fragment; six pieces of flake and scraper; 44 pieces of flake and stone; 100 pieces of flake, hammerstone, and gravel; five flakes; one graver; two knives; 27 pieces of pebble, stone tools, and flake; one pestle; 27 points and flakes; 11

potsherds; one pottery fragment; two projectile points; five scrapers; seven spear points; 84 pieces of stone tools and flakes; and two stones.

The preponderance of the evidence shows that these human remains and associated funerary objects are of Native American origin and date sometime between the middle woodland period and the early historic era. Mercer County, NJ, is the aboriginal territory of the Lenape, or Delaware people. Moreover, archeological, historic, linguistic, oral traditional, and other lines of evidence support a cultural affiliation of these human remains and objects with the Delaware Nation, Oklahoma; Delaware Tribe of Indians; and the Stockbridge Munsee Community, Wisconsin.

#### Determinations Made by the University of California, Berkeley

Officials of the University of California, Berkeley have determined that:

- Pursuant to 25 U.S.C. 3001(9), the human remains described in this notice represent the physical remains of four individuals of Native American ancestry.

- Pursuant to 25 U.S.C. 3001(3)(A), the 713 objects described in this notice are reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony.

- Pursuant to 25 U.S.C. 3001(2), there is a relationship of shared group identity that can be reasonably traced between the Native American human remains and associated funerary objects and The Tribes.

#### Additional Requestors and Disposition

Lineal descendants or representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains and associated funerary objects should submit a written request with information in support of the request to Dr. Thomas Torma; University of California, Berkeley; Office of the Vice Chancellor for Research, 119 California Hall, Berkeley, CA 94720–1500, telephone (510) 672–5388, email [t.torma@berkeley.edu](mailto:t.torma@berkeley.edu), by July 8, 2021. After that date, if no additional requestors have come forward, transfer of control of the human remains and associated funerary objects to The Tribes may proceed.

The University of California, Berkeley is responsible for notifying The Tribes that this notice has been published.

Dated: May 25, 2021.

**Melanie O'Brien,**

*Manager, National NAGPRA Program.*

[FR Doc. 2021-11945 Filed 6-7-21; 8:45 am]

BILLING CODE 4312-52-P

## DEPARTMENT OF THE INTERIOR

### National Park Service

[NPS-WASO-CR-NPS0031595;  
PPWOCRADIO, PCU00RP15.R50000,  
212P104215 (211); OMB Control Number  
1024-0018]

#### Agency Information Collection Activities; Nomination of Properties for Listing in the National Register of Historic Places

**AGENCY:** National Park Service, Interior.

**ACTION:** Notice of Information collection;  
request for comment.

**SUMMARY:** In accordance with the Paperwork Reduction Act of 1995, we, the National Park Service (NPS) are proposing to renew an information collection.

**DATES:** Interested persons are invited to submit comments on or before August 9, 2021.

**ADDRESSES:** Send your comments on this information collection request (ICR) by mail to Phadrea Ponds, NPS Information Collection Clearance Officer, National Park Service, 1201 Oakridge Drive Fort Collins, CO 80525; or by email to [phadrea\\_ponds@nps.gov](mailto:phadrea_ponds@nps.gov). Please reference Office of Management and Budget (OMB) Control Number 1024-0018 in the subject line of your comments.

**FOR FURTHER INFORMATION CONTACT:** To request additional information about this ICR, contact, Alexis Abernathy, National Register of Historic Places, by email at [alexis\\_abernathy@nps.gov](mailto:alexis_abernathy@nps.gov), or by telephone at 202 354-2236. Individuals who are hearing or speech impaired may call the Federal Relay Service at 1-800-877-8339 for TTY assistance.

**SUPPLEMENTARY INFORMATION:** In accordance with the Paperwork Reduction Act of 1995 (PRA, 44 U.S.C. 3501 *et seq.*) and 5 CFR 1320.8(d)(1), all information collections require approval under the PRA. We may not conduct or sponsor and you are not required to respond to a collection of information unless it displays a currently valid OMB control number.

As part of our continuing effort to reduce paperwork and respondent burdens, we invite the public and other

Federal agencies to comment on new, proposed, revised, and continuing collections of information. This helps us assess the impact of our information collection requirements and minimize the public's reporting burden. It also helps the public understand our information collection requirements and provide the requested data in the desired format.

We are especially interested in public comment addressing the following:

(1) Whether or not the collection of information is necessary for the proper performance of the functions of the agency, including whether or not the information will have practical utility.

(2) The accuracy of our estimate of the burden for this collection of information, including the validity of the methodology and assumptions used.

(3) Ways to enhance the quality, utility, and clarity of the information to be collected.

(4) How might the agency minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of response.

Comments that you submit in response to this notice are a matter of public record. We will include or summarize each comment in our request to OMB to approve this ICR. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

**Abstract:** The National Register of Historic Places (NRHP) is the official Federal list of districts, sites, buildings, structures, and objects significant in American history, architecture, archeology, engineering, and culture. National Register properties have significance to the history of communities, States, or the Nation. The National Historic Preservation Act of 1966 requires the Secretary of the Interior to maintain and expand the National Register, and to establish criteria and guidelines for including properties on the National Register. National Register properties must be considered in the planning for Federal

or federally assisted projects and listing in the National Register is required for eligibility for Federal rehabilitation tax incentives.

The NPS is responsible for administering the National Register. Nominations for listing historic properties come from State Historic Preservation Officers (SHPO), from Federal Preservation Officers (FPO) for properties owned or controlled by the United States Government, and from Tribal Historic Preservation Officers (THPO) for properties on tribal lands. Private individuals and organizations, local governments, and American Indian tribes often initiate this process and prepare the necessary documentation. Regulations at 36 CFR 60 and 63 establish the criteria and guidelines for listing and for determining the eligibility of properties.

**Title of Collection:** Nomination of Properties for Listing in the National Register of Historic Places.

**OMB Control Number:** 1024-0018.

**Form Number:** 10-900, 10-900-a, and 10-900-b.

**Type of Review:** Extension of a currently approved collection.

**Respondents/Affected Public:** Individuals, Private Sector, and Government.

**Total Estimated Number of Annual Respondents:** 2,564.

**Total Estimated Number of Annual Responses:** 8,443.

**Estimated Completion Time per Response:** Varies from 6 hours to 250 hours, depending on respondent and/or activity.

**Total Estimated Number of Annual Burden Hours:** 226,672.

**Respondent's Obligation:** Required to obtain or retain a benefit.

**Frequency of Collection:** On occasion.

**Total Estimated Annual Nonhour Burden Cost:** None.

An agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

The authority for this action is the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

**Phadrea Ponds,**

*Information Collection Clearance Officer,  
National Park Service.*

[FR Doc. 2021-11988 Filed 6-7-21; 8:45 am]

BILLING CODE 4312-52-P



**DEPARTMENT OF THE INTERIOR****National Park Service**

[NPS-WASO-NAGPRA-NPS0032040;  
PPWOCRADNO-PCU00RP14.R50000]

**Notice of Intent To Repatriate Cultural Items: McClure Archives and University Museum, University of Central Missouri, Warrensburg, MO**

**AGENCY:** National Park Service, Interior.

**ACTION:** Notice.

**SUMMARY:** The McClure Archives and University Museum, University of Central Missouri, in consultation with the appropriate Indian Tribes or Native Hawaiian organizations, has determined that the cultural item listed in this notice meet the definition of an object of cultural patrimony. Lineal descendants or representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to claim this cultural item should submit a written request to the McClure Archives and University Museum. If no additional claimants come forward, transfer of control of the cultural item to the lineal descendants, Indian Tribes, or Native Hawaiian organizations stated in this notice may proceed.

**DATES:** Lineal descendants or representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to claim this cultural item should submit a written request with information in support of the claim to the McClure Archives and University Museum at the address in this notice by July 8, 2021.

**FOR FURTHER INFORMATION CONTACT:** Ashley McGuffey, NAGPRA Preparator, McClure Archives and University Museum of JCKL 1470, 601 Missouri Street, Warrensburg, MO 64093, telephone (660) 543-4649, email [mcguffey@ucmo.edu](mailto:mcguffey@ucmo.edu).

**SUPPLEMENTARY INFORMATION:** Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3005, of the intent to repatriate a cultural item under the control of the McClure Archives and University Museum, University of Central Missouri, Warrensburg, MO, that meets the definition of an object of cultural patrimony under 25 U.S.C. 3001.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003(d)(3). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native

American cultural item. The National Park Service is not responsible for the determinations in this notice.

**History and Description of the Cultural Item**

In the 1920s, one cultural item was removed from an unknown location most likely on the southeastern coast of Alaska. In the 1920s, anthropologist Erna Gunther collected or bought a wooden food box from the Tsimshian people. After her death in 1982, Gunther's son, anthropologist Robert Spier, inherited the box. Spier reported that his mother did not tell him much about the box, as it caused tension between his parents and ultimately played a part in their divorce. Robert Spier died in 2014. In 2017, his widow, Carolyn Spier, donated the box to the McClure Archives and University Museum, along with many other items in her husband's personal anthropological collection. The one object of cultural patrimony is this wooden food box.

Following analysis by McClure Archive and University Museum staff, a determination was made that this wooden food box is Tsimshian, and is connected to the Metlakatla Indian Community, Annette Island Reserve, in Alaska.

**Determinations Made by the McClure Archives and University Museum, University of Central Missouri**

Officials of the McClure Archives and University Museum, University of Central Missouri have determined that:

- Pursuant to 25 U.S.C. 3001(3)(D), the one cultural item described above has ongoing historical, traditional, or cultural importance central to the Native American group or culture itself, rather than property owned by an individual.
- Pursuant to 25 U.S.C. 3001(2), there is a relationship of shared group identity that can be reasonably traced between the object of cultural patrimony and the Metlakatla Indian Community, Annette Island Reserve.

**Additional Requestors and Disposition**

Lineal descendants or representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to claim this cultural item should submit a written request with information in support of the claim to Ashley McGuffey, NAGPRA Preparator, McClure Archives and University Museum of JCKL 1470, 601 Missouri Street, Warrensburg, MO 64093, telephone (660) 543-4649, email [mcguffey@ucmo.edu](mailto:mcguffey@ucmo.edu), by July 8, 2021. After that date, if no additional

claimants have come forward, transfer of control of the object of cultural patrimony to the Metlakatla Indian Community, Annette Island Reserve may proceed.

The McClure Archives and University Museum, University of Central Missouri is responsible for notifying the Metlakatla Indian Community, Annette Island Reserve that this notice has been published.

Dated: May 25, 2021.

**Melanie O'Brien,**

*Manager, National NAGPRA Program.*

[FR Doc. 2021-11948 Filed 6-7-21; 8:45 am]

**BILLING CODE 4312-52-P**

**DEPARTMENT OF JUSTICE****Antitrust Division**

**United States v. Zen-Noh Grain Corporation, et al.; Proposed Final Judgment and Competitive Impact Statement**

Notice is hereby given pursuant to the Antitrust Procedures and Penalties Act, 15 U.S.C. 16(b)-(h), that a proposed Final Judgment, Stipulation, and Competitive Impact Statement have been filed with the United States District Court for the District of Columbia in *United States of America v. Zen-Noh Grain Corporation, et al.*, Civil Action No. 1:21-cv-1482-RJL. On June 1, 2021, the United States filed a Complaint alleging that Zen-Noh Grain Corporation's proposed acquisition of 35 operating and 13 idled U.S. grain origination elevators from Bunge North America, Inc. would violate Section 7 of the Clayton Act, 15 U.S.C. 18. The proposed Final Judgment, filed at the same time as the Complaint, requires Zen-Noh Grain Corporation to divest nine grain elevators located in five states along the Mississippi River and its tributaries.

Copies of the Complaint, proposed Final Judgment, and Competitive Impact Statement are available for inspection on the Antitrust Division's website at <http://www.justice.gov/atr> and at the Office of the Clerk of the United States District Court for the District of Columbia. Copies of these materials may be obtained from the Antitrust Division upon request and payment of the copying fee set by Department of Justice regulations.

Public comment is invited within 60 days of the date of this notice. Such comments, including the name of the submitter, and responses thereto, will be posted on the Antitrust Division's website, filed with the Court, and, under certain circumstances, published in the



**Federal Register.** Comments should be submitted in English and directed to Robert Lepore, Chief, Transportation, Energy, and Agriculture Section, Antitrust Division, Department of Justice, 450 Fifth Street NW, Suite 8000, Washington, DC 20530 (email address: [Robert.Lepore@usdoj.gov](mailto:Robert.Lepore@usdoj.gov)).

**Suzanne Morris,**

*Chief, Premerger and Division Statistics, Antitrust Division.*

## UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA

*United States of America, U.S. Department of Justice, Antitrust Division, 450 Fifth Street NW, Suite 8000, Washington, DC 20530, Plaintiff, v. Zen-Noh Grain Corp., 1127 Highway 190, East Service Road, Covington, LA 70433 and Bunge North America, Inc., 1391 Timberland Manor Parkway, Chesterfield, MO 63017, Defendants.*  
Civil Action No.: 1:21-cv-1482-RJL  
Judge Richard J. Leon

### Complaint

The United States of America, acting under the direction of the Attorney General of the United States, brings this civil antitrust action to prevent Zen-Noh Grain Corp. from acquiring assets of Bunge North America, Inc. The United States alleges as follows:

#### I. Introduction

1. American farmers produce the crops that feed our nation and the world. The United States' primary crops are corn and soybeans (collectively referred to here as "grain"). American farmers produced 14.2 billion bushels of corn and 4.14 billion bushels of soybeans in 2020, and roughly one-quarter of these grains were exported. In the United States, grain may flow from the farm directly to end users like ethanol plants and feed mills, or farmers can sell their grain to local grain elevators, where it is stored and aggregated, and later transported by train or barge to more distant domestic end users or to port elevators for export. To earn a fair return on their hard work and investments, farmers rely on vigorous competition between the companies that purchase their grain for direct use or further resale.

2. Zen-Noh Grain Corp. ("ZGC") seeks to acquire 35 operating and 13 idled U.S. grain elevators from Bunge North America, Inc. ("Bunge"). These elevators are located in nine states, mainly along the Mississippi River and its tributaries. ZGC and Bunge are both grain traders and exporters, each purchasing millions of tons of corn and soybeans annually from farmers located across the United States' agricultural regions, and through their networks

distributing the grain to customers throughout the United States and the rest of the world.

3. Today, ZGC, along with its affiliate CGB Enterprises, Inc. ("CGB"), a 50–50 joint venture between ZGC and Itochu Corporation, competes against Bunge to purchase corn and soybeans at numerous U.S. grain elevators and at their port elevators. In particular, in some areas along the Mississippi and Ohio Rivers where the Defendants operate competing river elevators, farmers have few—if any—alternative purchasers for their grain. The acquisition will eliminate competition between ZGC and Bunge in those locations; as a result, many U.S. farmers are likely to receive lower prices and poorer quality service when seeking to sell their grain.

4. In nine geographic areas, a Bunge elevator and a nearby ZGC or CGB elevator represent two of only a small number of alternatives where area farmers can sell their grain. In those nine areas, ZGC and Bunge currently compete aggressively to win farmers' business by offering better prices and more attractive amenities such as faster grain drop-off services and better grain grading. Faster drop-off services mean farmers can get back to their fields more quickly and make better use of their trucks and employees, ultimately saving time and money. If one elevator is grading grain more harshly or inconsistently, which may lead to a lower price paid to a farmer for the grain, the farmer has the option of selling to a competing elevator which may grade differently.

5. If the proposed transaction proceeds in its current form, farmers located in these areas are likely to receive lower prices and lower quality services, and have fewer choices for the sale of their crops. The proposed transaction therefore is likely to lessen competition substantially in violation of Section 7 of the Clayton Act, 15 U.S.C. 18, and the Court should enjoin this unlawful transaction.

#### II. Jurisdiction and Venue

6. The United States brings this action pursuant to Section 15 of the Clayton Act, 15 U.S.C. 25, to prevent and restrain Defendants from violating Section 7 of the Clayton Act, 15 U.S.C. 18.

7. Defendants are engaged in, and their activities substantially affect, interstate commerce. ZGC and Bunge both purchase, store, and sell grain throughout the United States. The Court has subject matter jurisdiction over this action pursuant to Section 15 of the

Clayton Act, 15 U.S.C. 25, and 28 U.S.C. 1331, 1337(a), and 1345.

8. ZGC and Bunge have each consented to personal jurisdiction and venue in this jurisdiction for purposes of this action. Venue is proper under 15 U.S.C. 22, and 28 U.S.C. 1391(b) and (c).

#### III. Defendants and the Proposed Transaction

9. This case arises from ZGC's proposed acquisition of certain grain elevator assets from Bunge for approximately \$300 million pursuant to an Asset Purchase Agreement entered on April 21, 2020.

10. ZGC, headquartered in Covington, Louisiana, is a subsidiary of the National Federation of Agricultural Cooperative Associations of Japan. ZGC owns and operates a state-of-the-art export elevator located on the Mississippi River near Convent, Louisiana, from which it trades and exports corn, soybeans, sorghum, wheat, and grain by-products. Recently expanded in 2018 to handle up to 17 million tons of grain annually, ZGC's Convent elevator is the largest port elevator on the Mississippi. ZGC does not own any inland grain elevators and relies upon its affiliate, CGB, to supply the majority of the massive quantities of corn and soybeans ZGC exports annually from Convent. Post-acquisition, ZGC intends to lease the Bunge elevators to CGB to operate through CGB's wholly owned subsidiary, Consolidated Grain and Barge Co.

11. CGB is a 50–50 joint venture between ZGC and Itochu Corporation, a global trading company. CGB operates more than 100 elevators, many of which are located along the Mississippi, Ohio, Arkansas, and Illinois Rivers. CGB is the fifth-largest grain company in the United States by storage capacity. CGB's grain merchandizers are in daily contact with thousands of farmers, actively seeking to purchase grain from them. Currently, CGB sells approximately 60% of the grain it purchases to ZGC.

12. Bunge, headquartered in Chesterfield, Missouri, is the North American subsidiary of Bunge Limited. Bunge is a large agribusiness and food ingredient company that owns and operates grain elevators, oilseed processing plants, and edible oil refineries, as well as grain export terminals. Bunge is the eighth-largest grain company in the United States by storage capacity. Post-acquisition, Bunge will continue purchase grain in the United States via its export elevator on the Mississippi River in Destrehan, Louisiana and its export terminal in Longview, Washington (a joint venture

with Itochu Corporation). In addition to the export terminals, Bunge will retain ownership interests in eight elevators in Illinois and Indiana.

#### IV. The Relevant Markets

13. The livelihood of farmers depends on their ability to sell the corn and soybeans they grow to purchasers who offer them the best price, net of transportation and other selling costs that farmers incur. Ethanol plants and feed and crush mills purchase grain and process it into usable products such as soy meal or fuel. Rail and river elevators also purchase grain and store it until it is sold and transported to end users, in either domestic or export markets.

14. For convenience, some farmers may sell their grain to smaller, "country" elevators, located in closer proximity to the farmer than end users or rail and river elevators. Such elevators serve as grain collection and buying points in rural communities, and may provide other services like grain storage, drying, and conditioning services. Upon aggregating sufficient quantities of grain, or when market prices are most attractive, country elevators ultimately resell the grain to end users or to the larger rail or river elevators that can transport the grain to end users or export elevators.

15. More than 45% of the grain exported from the U.S. is shipped out from port elevator export terminals located at the mouth of the Mississippi River near the Gulf of Mexico. The vast majority of this grain is sourced from river elevators located along the Mississippi and its tributaries. These river elevators, found as far north as Minnesota, purchase grain from surrounding farms, and load it onto barges for transport to the port elevators.

##### A. Relevant Product Markets

16. ZGC (mainly through CGB) and Bunge own grain elevators, primarily located at rail terminals and along navigable rivers. They compete with other grain purchasers, including ethanol processors, feed mills, and crush processors, to purchase corn and soybeans from U.S. farmers, brokers and country elevators. Corn and soybeans are each distinct products without reasonable substitutes, differing from other agricultural commodities and one another in their physical characteristics, means of production, uses, and pricing. Because of the length of growing seasons, and the suitability of corn and soybeans to certain climates and regions, farmers of these crops would not switch to production of other agricultural commodities in sufficient numbers to render unprofitable a small

but significant decrease in price by a hypothetical monopsonist of that crop. The purchase of corn and the purchase of soybeans for end use or for sale to the export market each constitute a relevant product market and line of commerce under Section 7 of the Clayton Act, 15 U.S.C. 18.

##### B. Relevant Geographic Market

17. Farmers typically haul grain by truck to nearby elevators or end users. Transportation costs increase significantly with every mile the farmers must transport the grain to reach a purchaser, reducing the farmers' profits. Transporting grain also consumes farmers' time. For these reasons, a small change in price would not likely cause farmers to significantly expand the distance they are willing to drive to sell their grain. The distance a farmer is willing to drive is determined in large part by the second-closest potential purchaser, which is the best competitive threat to the purchaser closest to the farmer.

18. Rail or river elevators and other grain purchasing facilities, such as grain crush plants and ethanol plants, typically purchase grain from within the facility's draw area. "Draw area" is an industry term that describes the locations of farms from which the facility expects to acquire most of its grain. Each elevator or end user has a unique draw area due to characteristics such as surrounding road conditions, crop output, local topography, and proximity of competing purchasers. The draw area of a grain purchasing facility is determined by transportation time and costs and so is usually very localized.

19. The draw area of one grain facility frequently will overlap with that of another, resulting in competition between the facilities to purchase grain from farmers. Some farming areas of the country may be located such that they fall within the overlapping draw areas of only a few competing grain purchasing facilities. In particular, in the following areas where the Defendants' river elevators have overlapping draw areas, there are only a small number of grain purchasers competing to purchase farmers' corn and soybeans:

(a) The overlapping draw areas of elevators in the vicinity of McGregor, Iowa;

(b) The overlapping draw areas of elevators in the vicinity of Albany/Fulton, Illinois;

(c) The overlapping draw areas of elevators in the vicinity of Shawneetown, Illinois;

(d) The overlapping draw areas of elevators in the vicinity of Caruthersville, Missouri;

(e) The overlapping draw areas of elevators in the vicinity of Huffman, Arkansas;

(f) The overlapping draw areas of elevators in the vicinity of Osceola, Arkansas;

(g) The overlapping draw areas of elevators in the vicinity of Helena, Arkansas;

(h) The overlapping draw areas of elevators in the vicinity of Lake Providence, Louisiana; and

(i) The overlapping draw areas of elevators in the vicinity of Lettsworth, Louisiana.

20. These geographic areas satisfy the hypothetical monopsonist test (a "monopsonist" is a buyer that controls the purchases in a given market), the buyer-side counterpart to the hypothetical monopolist test. A hypothetical monopsonist of the purchase of corn or soybeans in each of these areas would impose at least a small but significant and non-transitory decrease in the price paid to farmers. Such a price decrease for these products would not be defeated by farmers selling to purchasers outside their local area due to the added costs of transportation. As farmers in these areas have already determined the best use of their farmland, a price decrease would also not be defeated by farmers' switching to growing alternative crops. Farmers currently growing corn or soybeans are unlikely to convert to production of other agricultural commodities in sufficient numbers to prevent a small but significant decrease in price. Nor could area farmers thwart a post-transaction price decrease by selling instead to local country elevators. Country elevators simply resell grain to river and rail elevators or to other end users; if Defendants lower prices post-transaction, country elevators would be forced to lower their own price to farmers to maintain profitability. Consequently, country elevators cannot mitigate a price decrease resulting from this transaction. Therefore, each of the overlapping draw areas above constitute a relevant geographic market within the meaning of Section 7 of the Clayton Act, 15 U.S.C. 18, for the purposes of analyzing this transaction.

#### V. ZGC's Acquisition of Certain Grain Elevators From Bunge is Likely To Result in Anticompetitive Effects

21. In each of the nine relevant geographic markets, ZGC (and its affiliate CGB) and Bunge are two of a very small number of grain purchasers competing to buy corn and soybeans; in

two of these markets, CGB and Bunge are the only elevators available to area farmers. Farmers located within these geographic areas depend on this competition to obtain a competitive price for their grain. ZGC's acquisition of Bunge's elevators will substantially lessen competition for the purchase of corn and soybeans in these markets, enabling it to unilaterally depress prices paid to farmers for their crops.

22. Because there are few alternative grain purchasers within these geographic areas, purchases of grain are highly concentrated, with the Defendants accounting for a majority of corn and/or soybean purchases in a given year. For example, in 2019, the Defendants purchased upwards of 95% of the total corn and soybean output of farmers in Pemiscot County, Missouri; Pemiscot County falls within the draw area of Bunge's Caruthersville, Missouri river elevator, and the draw areas of CGB's Caruthersville and Cottonwood, Missouri river elevators.

23. By eliminating head-to-head competition between ZGC (and its affiliate CGB) and Bunge for grain purchases in these geographic markets, the proposed acquisition would result in lower prices paid to farmers, lower quality of services offered to farmers at the grain origination elevators, and reduced choice of outlets for farmers to sell their grain. The proposed transaction would substantially lessen competition and harm the many farmers selling their crops to river elevators along the Mississippi River and its tributaries.

#### V. Absence of Countervailing Factors

24. New entry and expansion by competitors likely will not be timely and sufficient in scope to prevent the acquisition's likely anticompetitive effects. New elevators are unlikely to be constructed in these geographic markets because of the high cost of construction and the difficulty of finding appropriate locations to build such a facility along the Mississippi or its tributaries. Even assuming such a location could be found and regulatory and permitting requirements could be fulfilled, constructing a river elevator would take approximately two years to complete.

25. The proposed acquisition is unlikely to generate verifiable, merger-specific efficiencies sufficient to reverse or outweigh the anticompetitive effects likely to occur.

#### VII. Violation Alleged

26. The United States hereby incorporates the allegations of paragraphs 1 through 26 above as if set forth fully herein.

27. ZGC's proposed acquisition of the Bunge elevators is likely to substantially lessen competition in the relevant markets, in violation of Section 7 of the Clayton Act, 15 U.S.C. 18.

28. Unless enjoined, the proposed acquisition would likely have the following anticompetitive effects, among others:

(a) Eliminate present and future competition between ZGC (and affiliate CGB) and Bunge in the each of the relevant geographic markets for the purchase of corn and the purchase of soybeans;

(b) cause prices paid to farmers for corn and soybeans to be lower than they would be otherwise; and

(c) reduce quality, service, and choice for American farmers.

#### VIII. Request for Relief

29. The United States requests that the Court:

(a) Adjudge ZGC's acquisition of Bunge's elevators to violate Section 7 of the Clayton Act, 15 U.S.C. 18;

(b) permanently enjoin Defendants from consummating ZGC's proposed acquisition of Bunge's elevators or from entering into or carrying out any other agreement, understanding, or plan by which the assets or businesses of ZGC and Bunge would be combined;

(c) award the United States its costs of this action; and

(d) grant the United States such other relief the Court deems just and proper.

Dated: June 1, 2021.

Respectfully submitted,  
FOR PLAINTIFF UNITED STATES:

Richard A. Powers  
*Acting Assistant Attorney General for Antitrust*

Kathleen S. O'Neill  
*Senior Director of Investigations & Litigation*

Robert A. Lepore  
*Chief, Transportation, Energy & Agriculture Section*

Katherine A. Celeste  
*Assistant Chief, Transportation, Energy & Agriculture Section*

Jill Ptacek \*  
Michele B. Cano  
Jessica Butler-Arkow (D.C. #43022)  
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*U.S. Department of Justice, Antitrust Division, 450 Fifth Street NW, Suite 8000, Washington, DC 20530, Tel: (202) 307-6607, Fax: (202) 616-2441, Email: jill.ptacek@usdoj.gov*

\* Lead attorney to be noticed

#### UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA

*United States of America, Plaintiff, v. Zen-Noh Grain Corp., and Bunge North America, Inc., Defendants.*

Civil Action No.: 1:21-cv-1482-RJL  
Judge Richard J. Leon

#### Proposed Final Judgment

*Whereas*, Plaintiff, United States of America, filed its Complaint on \_\_\_\_\_, 2021;

*And whereas*, the United States and Defendants, Zen-Noh Grain Corp. and Bunge North America, Inc., by their respective attorneys, have consented to entry of this Final Judgment without the taking of testimony, without trial or adjudication of any issue of fact or law, and without this Final Judgment constituting any evidence against or admission by any party regarding any issue of fact or law;

*And whereas*, Defendants agree to make certain divestitures to remedy the loss of competition alleged in the Complaint;

*And whereas*, Defendants represent that the divestitures and other relief required by this Final Judgment can and will be made and that Defendants will not later raise a claim of hardship or difficulty as grounds for asking the Court to modify any provision of this Final Judgment;

*Now therefore*, it is *ordered, adjudged, and decreed*:

#### I. Jurisdiction

The Court has jurisdiction over the subject matter of and each of the parties to this action. The Complaint states a claim upon which relief may be granted against Defendants under Section 7 of the Clayton Act, as amended (15 U.S.C. 18).

#### II. Definitions

As used in this Final Judgment:

A. "Acquirer" or "Acquirers" means Vicerion or another entity or entities to which Defendants divest the Divestiture Assets.

B. "ZGC" means Zen-Noh Grain Corp., a Louisiana corporation headquartered in Covington, Louisiana, its successors and assigns, and its subsidiaries, divisions, groups, affiliates (including CGB), partnerships, and joint ventures, and their directors, officers, managers, agents, and employees.

C. "Bunge" means Bunge North America, Inc., a New York corporation headquartered in Chesterfield, Missouri, its successors and assigns, and its subsidiaries, divisions, groups, affiliates, partnerships, and joint ventures, and their directors, officers, managers, agents, and employees.

D. "Bunge Elevators" means the elevators located on the properties owned or leased by Bunge listed among the Divested Elevators.

E. "CGB" means CGB Enterprises Inc., a Louisiana corporation headquartered in Covington, LA, its successors and assigns, and its subsidiaries, divisions, groups, affiliates, partnerships, and joint

ventures, and their directors, officers, managers, agents, and employees.

F. "CGB Elevator" means the elevator located on the property owned or leased by CGB listed among the Divested Elevators.

G. "Viserion" means Viserion Grain, LLC and Viserion International Holdco, LLC, Delaware limited liability

companies headquartered in Colorado, their successors and assigns, their subsidiaries, divisions, groups, affiliates, partnerships, and joint ventures and their directors, officers, managers, agents, and employees.

H. "Divested Elevators" means the following elevators:

Geographic area	Elevator(s) to be divested
McGregor, IA .....	The Bunge Elevator located at 311 E B St., McGregor, IA 52157.
Albany, IL .....	The Bunge Elevator located at 1002 N Main St., Albany, IL 61230 <i>OR</i> the CGB Elevator located at 561 Broderick Drive, Savanna, IL 61074.
Shawneetown, IL .....	The Bunge Elevator located at 218 Market St., Shawneetown, IL 62984.
Caruthersville, MO .....	The Bunge Elevator located at 100 Ward Ave., Caruthersville, MO 63830.
Huffman, AR .....	The Bunge Elevator located at 7058 E County Rd. 54, Hwy. 37, Blytheville, AR 72315.
Osceola, MO .....	The Bunge Elevators located at 2220 E State Hwy. 198 and Mississippi River, Osceola, AR 72370 and at Mississippi County 661 S, Monroe Township, AR 72370.
Helena, AR .....	The Bunge Elevator located at 103 Hanks Ln., Helena, AR 72342.
Lake Providence, LA .....	The Bunge Elevator located at 337 Port Rd., Lake Providence, LA 71254.
Lettsworth, LA .....	The Bunge Elevator located at 17783 Hwy. 418, Lettsworth, LA 70753.

I. "Divestiture Assets" means all of Defendants' rights, titles, and interests in and to:

1. The Divested Elevators;
2. all contracts, contractual rights, and relationships, including customer and supplier relationships, and all other agreements, commitments, and understandings, including, supply agreements, teaming agreements, and leases, and all outstanding offers or solicitations to enter into a similar arrangement that relate exclusively to the Divested Elevators; and
3. all other property and assets, tangible and intangible, wherever located, relating to or used in connection with each Divested Elevator, including:
  - a. All real property and real property rights, fee simple interests; buildings, facilities, and other structures, including bins, silos, other grain storage facilities, and dock facilities; easements; leasehold and rental rights, including all renewal or option rights; prepaid rent and security deposits; and fixtures, improvements, and assignable improvement warranties;
  - b. all tangible personal property; equipment, machinery, and tools, such as those used for handling, receiving, unloading, weighing, sampling, grading, elevating, storing, drying, conditioning, loading, and buying and selling grain; vehicles and furniture; supplies, replacement parts, and spare parts; and inventory;
  - c. all licenses, permits, certifications, approvals, consents, registrations, waivers, and authorizations issued or granted by any governmental organization, and all pending applications or renewals;

d. all records and data, including (a) customer and supplier lists, accounts, sales, and credit records, (b) production, repair, maintenance, and performance records, (c) manuals and technical information Defendants provide to their own employees, customers, suppliers, agents, or licensees, (d) accounting and operating records and ledgers; (e) sales and marketing records, including local marketing plans and sales and advertising materials, (f) records and research data concerning historic and current research and development activities, and (g) drawings, blueprints, and designs; and

e. all other intangible property, including, (a) technical information, (b) design tools and simulation capabilities, (c) computer software and related documentation, know-how, trade secrets, design protocols, specifications for materials, specifications for parts, specifications for devices, safety procedures (e.g., for the handling of materials and substances), and quality assurance and control procedures, provided, however, that any intellectual property associated with the brand names Bunge, CGB, Zen-Noh, and ZGC is not included in the Divestiture Assets.

J. "Divestiture Date" means the date[s] on which the Divestiture Assets are divested to Acquirer[s] pursuant to this Final Judgment.

K. "Including" means including, but not limited to.

L. "Relevant Personnel" means: (1) All full-time, part-time, or contract employees employed at the Divested Elevators at any time between August 21, 2020, and the Divestiture Date; (2) all elevator managers, grain merchandisers, and elevator

superintendents employed by Bunge or CGB whose job responsibilities are shared between or among Divested Elevators and any non-divested elevators, at any time between August 21, 2020, and the Divestiture Date; and (3) all regional managers employed by Bunge one organizational level above the elevator manager level, wherever located, whose job responsibilities support the grain purchasing business of any of the Bunge Elevators, at any time between August 21, 2020, and the Divestiture Date. The United States, in its sole discretion, will resolve any disagreement regarding which employees are Relevant Personnel.

M. "Transaction" means ZGC's proposed acquisition of 35 operating and 13 idled grain elevators from Bunge.

**III. Applicability**

A. This Final Judgment applies to Defendants ZGC and Bunge, as defined above, and all other persons in active concert or participation with any Defendant who receive actual notice of this Final Judgment.

B. If, prior to complying with Section IV and Section V of this Final Judgment, Defendants sell or otherwise dispose of all or substantially all of their assets or of business units that include the Divestiture Assets, Defendants must require any purchaser to be bound by the provisions of this Final Judgment. Defendants need not obtain such an agreement from an Acquirer.

**IV. Divestitures**

A. Defendant ZGC is ordered and directed within 30 calendar days after entry of the Asset Preservation Stipulation and Order to divest the Divestiture Assets in a manner

consistent with this Final Judgment to Viserion or to another Acquirer or Acquirers acceptable to the United States, in its sole discretion. The United States, in its sole discretion, may agree to one or more extensions of this time period not to exceed 90 calendar days in total and will notify the Court of any extensions.

B. Defendant ZGC must use its best efforts to divest the Divestiture Assets as expeditiously as possible, and Defendants may not take any action to impede the permitting, licensing, operation, or divestiture of the Divestiture Assets. Defendants must take no action that would jeopardize the divestiture ordered by the Court.

C. Unless the United States otherwise consents in writing, divestiture pursuant to this Final Judgment must include the entire Divestiture Assets and must be accomplished in such a way as to satisfy the United States, in its sole discretion, that the Divestiture Assets can and will be used by Acquirer as part of a viable, ongoing business of grain purchasing, and that the divestiture to Acquirer or Acquirers will remedy the competitive harm alleged in the Complaint.

D. The divestiture must be made to an Acquirer or Acquirers that, in the United States' sole judgment, has or have the intent and capability (including the necessary managerial, operational, technical, and financial capability) to compete effectively in grain purchasing.

E. The divestiture must be accomplished in a manner that satisfies the United States, in its sole discretion, that none of the terms of any agreement between an Acquirer and Defendant ZGC give Defendants the ability unreasonably to raise an Acquirer's costs, to lower an Acquirer's efficiency, or otherwise to interfere in the ability of an Acquirer to compete effectively in grain purchasing.

F. Divestiture of the Divestiture Assets may be made to one or more Acquirers, in one or more transactions, provided that it is demonstrated to the sole satisfaction of the United States that the criteria required by Paragraphs IV(C), IV(D), and IV(E) will still be met.

G. In the event Defendant ZGC is attempting to divest the Divestiture Assets to an Acquirer other than Viserion, Defendant ZGC promptly must make known, by usual and customary means, the availability of the Divestiture Assets. Defendant ZGC must inform any person making an inquiry regarding a possible purchase of the Divestiture Assets that the Divestiture Assets are being divested in accordance with this Final Judgment and must provide that

person with a copy of this Final Judgment. Defendants must offer to furnish to all prospective Acquirers, subject to customary confidentiality assurances, all information and documents relating to the Divestiture Assets that are customarily provided in a due-diligence process; *provided, however*, that Defendants need not provide information or documents subject to the attorney-client privilege or work-product doctrine. Defendants must make all information and documents available to the United States at the same time that the information and documents are made available to any other person.

H. Defendants must provide prospective Acquirers with (1) access to make inspections of the Divestiture Assets; (2) access to all environmental, zoning, and other permitting documents and information regarding the Divestiture Assets; and (3) access to all financial, operational, or other documents and information relating to the Divestiture Assets that customarily would be provided as part of a due-diligence process. Defendants also must disclose all encumbrances on any part of the Divestiture Assets, including on intangible property.

I. Defendants must cooperate with and assist an Acquirer in identifying and, at the option of Acquirer, hiring all Relevant Personnel, including:

1. Within 10 business days following the filing of the Complaint in this matter, or, if the Divestiture Assets are divested to an Acquirer or Acquirers other than Viserion, within 10 business days of notice from the United States pursuant to Paragraph VI.C. that it does not object to a proposed Acquirer, Defendants must identify all Relevant Personnel to Acquirer and the United States, including by providing organization charts covering all Relevant Personnel.

2. Within 10 business days following receipt of a request by an Acquirer or the United States, Defendants must provide to Acquirer and the United States additional information related to Relevant Personnel, including name, job title, reporting relationships, past experience, responsibilities, training and educational histories, relevant certifications, and job performance evaluations. Defendants must also provide to Acquirer and the United States current and accrued compensation and benefits, including most recent bonuses paid, aggregate annual compensation, current target or guaranteed bonus, any retention agreement or incentives, and any other payments due, compensation or benefited accrued, or promises made to

the Relevant Personnel. If Defendants are barred by any applicable law from providing any of this information, Defendants must provide, within 10 business days following receipt of the request, the requested information to the full extent permitted by law and also must provide a written explanation of Defendants' inability to provide the remaining information, including specifically identifying the provisions of the applicable laws.

3. At the request of an Acquirer, Defendants must promptly make Relevant Personnel available for private interviews with Acquirer during normal business hours at a mutually agreeable location.

4. Defendants must not interfere with any effort by an Acquirer to employ any Relevant Personnel. Interference includes, but is not limited to, offering to increase the compensation or improve the benefits of Relevant Personnel unless: (a) The offer is part of a company-wide increase in compensation or improvement in benefits that was announced prior to April 21, 2020, or (b) the offer is approved by the United States in its sole discretion. Defendants' obligations under this Paragraph will expire 6 months after the Divestiture Date.

5. For Relevant Personnel who elect employment with an Acquirer within 6 months of the Divestiture Date, Defendants must waive all non-compete and non-disclosure agreements, vest all unvested pension and other equity rights (or to the extent such accelerated vesting is not permitted, provide the equivalent benefits), provide any pay pro-rata, provide all other compensation and benefits that their Relevant Personnel have fully or partially accrued, and provide pro-rata all other benefits that those Relevant Personnel otherwise would have been provided had the Relevant Personnel continued employment with Defendants, including any vested retention bonuses or payments. Defendants may maintain reasonable restrictions on disclosure by Relevant Personnel of Defendants' proprietary non-public information that is unrelated to the Divestiture Assets and not otherwise required to be disclosed by this Final Judgment.

6. For a period of 12 months from the Divestiture Date, Defendants may not solicit to rehire the following categories of Relevant Personnel hired by an Acquirer from Defendants within 6 months of the Divestiture Date: Regional and general managers, elevator managers, grain merchandisers, elevator superintendents, and bookkeepers. Defendants may solicit to rehire these categories of Relevant Personnel if (a) an

individual is terminated or laid off by Acquirer, or (b) Acquirer agrees in writing that Defendants may solicit to rehire that individual. Nothing in this Paragraph IV.H.6. prohibits Defendants from advertising employment openings using general solicitations or advertisements and rehiring Relevant Personnel who apply for an employment opening through a general solicitation or advertisement.

J. Defendant ZGC must warrant to Acquirer or Acquirers that (1) the Divestiture Assets will be operational and without material defects on the date of their transfer to Acquirer; (2) there are no material defects in the environmental, zoning, or other permits relating to the operation of the Divestiture Assets; and (3) Defendant ZGC has disclosed all encumbrances on any part of the Divestiture Assets, including on intangible property. Following the sale of the Divestiture Assets, Defendants must not undertake, directly or indirectly, challenges to the environmental, zoning, or other permits relating to the operation of the Divestiture Assets.

K. For any contract or agreement that requires the consent of another party to assign, subcontract, or otherwise transfer, Defendants must use best efforts to accomplish the assignment, subcontracting, or transfer. Defendants must not interfere with any negotiations between an Acquirer and a contracting party.

L. Defendants must make best efforts to assist Acquirer or Acquirers to obtain all necessary licenses, registrations, certifications, and permits to operate the Divestiture Assets, including those issued by governmental entities. Until an Acquirer obtains the necessary licenses, registrations, certifications, and permits, Defendants must provide Acquirer with the benefit of Defendants' licenses, registrations, certifications, and permits to the full extent permissible by law.

M. At the option of Acquirer or Acquirers, and subject to approval by the United States in its sole discretion, on or before the Divestiture Date, Defendants must enter into contracts to provide transition services for back office, human resources, and information technology, for a period of up to six months after the divestiture occurs on terms and conditions reasonably related to market conditions for the provision of the transition services. Any amendments to or modifications of any provision of any contract between either or both Defendants, and Acquirer or Acquirers, to provide transition services are subject to approval by the United States, in its

sole discretion. The United States, in its sole discretion, may approve one or more extensions of any contract for transition services between Defendants and Vicerion, for a total of up to an additional six months. In the event the Divestiture Assets are divested to an Acquirer or Acquirers other than Vicerion, the United States, in its sole discretion, may approve an extension of any contract for transition services for up to 12 months after the divestiture is completed. If an Acquirer seeks an extension of the term of any contract for transition services, the relevant Defendant must notify the United States in writing at least two months prior to the date the contract expires. An Acquirer may terminate a contract for transition services, or any portion of a contract for transition services, without cost or penalty at any time upon 30 days' written notice. The employee(s) of Defendants tasked with providing transition services must not share any competitively sensitive information of an Acquirer with any other employee of Defendants.

N. If any term of an agreement between Defendants and Acquirer or Acquirers, including an agreement to effectuate the divestiture required by this Final Judgment, varies from a term of this Final Judgment, to the extent that Defendants cannot fully comply with both, this Final Judgment determines Defendants' obligations.

#### **V. Appointment of Divestiture Trustee**

A. If Defendant ZGC has not divested the Divestiture Assets within the period specified in Paragraph IV.A., Defendant ZGC must immediately notify the United States of that fact in writing. Upon application of the United States, which Defendants may not oppose, the Court will appoint a divestiture trustee selected by the United States and approved by the Court to effect the divestiture of the Divestiture Assets.

B. After the appointment of a divestiture trustee by the Court, only the divestiture trustee will have the right to sell the Divestiture Assets. The divestiture trustee will have the power and authority to accomplish the divestiture to an Acquirer or Acquirer(s) acceptable to the United States, in its sole discretion, at a price and on terms obtainable through reasonable effort by the divestiture trustee, subject to the provisions of Sections IV, V, and VI of this Final Judgment, and will have other powers as the Court deems appropriate. The divestiture trustee will have sole discretion to select the Divested Elevator to be divested in each geographic area listed in Paragraph II.H. The divestiture trustee must sell the

Divestiture Assets as quickly as possible.

C. Defendants may not object to a sale by the divestiture trustee on any ground other than malfeasance by the divestiture trustee. Objections by Defendants must be conveyed in writing to the United States and the divestiture trustee within 10 calendar days after the divestiture trustee has provided the notice of proposed divestiture required by Section VI.

D. The divestiture trustee will serve at the cost and expense of Defendant ZGC pursuant to a written agreement, on terms and conditions, including confidentiality requirements and conflict of interest certifications, that are approved by the United States in its sole discretion.

E. The divestiture trustee may hire at the cost and expense of Defendant ZGC any agents or consultants, including, but not limited to, investment bankers, attorneys, and accountants, that are reasonably necessary in the divestiture trustee's judgment to assist with the divestiture trustee's duties. These agents or consultants will be accountable solely to the divestiture trustee and will serve on terms and conditions, including terms and conditions governing confidentiality requirements and conflict-of-interest certifications, that are approved by the United States in its sole discretion.

F. The compensation of the divestiture trustee and agents or consultants hired by the divestiture trustee must be reasonable in light of the value of the Divestiture Assets and based on a fee arrangement that provides the divestiture trustee with incentives based on the price and terms of the divestiture and the speed with which it is accomplished. If the divestiture trustee and Defendant ZGC are unable to reach agreement on the divestiture trustee's compensation or other terms and conditions of engagement within 14 calendar days of the appointment of the divestiture trustee by the Court, the United States, in its sole discretion, may take appropriate action, including by making a recommendation to the Court. Within three business days of hiring an agent or consultant, the divestiture trustee must provide written notice of the hiring and rate of compensation to Defendant ZGC and the United States.

G. The divestiture trustee must account for all monies derived from the sale of the Divestiture Assets sold by the divestiture trustee and all costs and expenses incurred. Within 30 calendar days of the Divestiture Date, the divestiture trustee must submit that accounting to the Court for approval.

After approval by the Court of the divestiture trustee's accounting, including fees for unpaid services and those of agents or consultants hired by the divestiture trustee, all remaining money must be paid to Defendant ZGC and the trust will then be terminated.

H. Defendants must use their best efforts to assist the divestiture trustee to accomplish the required divestiture. Subject to reasonable protection for trade secrets, other confidential research, development, or commercial information, or any applicable privileges, Defendants must provide the divestiture trustee and agents or consultants retained by the divestiture trustee with full and complete access to all personnel, books, records, and facilities of the Divestiture Assets. Defendants also must provide or develop financial and other information relevant to the Divestiture Assets that the divestiture trustee may reasonably request. Defendants must not take any action to interfere with or to impede the divestiture trustee's accomplishment of the divestiture.

I. The divestiture trustee must maintain complete records of all efforts made to sell the Divestiture Assets, including by filing monthly reports with the United States setting forth the divestiture trustee's efforts to accomplish the divestiture ordered by this Final Judgment. The reports must include the name, address, and telephone number of each person who, during the preceding month, made an offer to acquire, expressed an interest in acquiring, entered into negotiations to acquire, or was contacted or made an inquiry about acquiring any interest in the Divestiture Assets and must describe in detail each contact with any such person.

J. If the divestiture trustee has not accomplished the divestiture ordered by this Final Judgment within six months of appointment, the divestiture trustee must promptly provide the United States with a report setting forth: (1) The divestiture trustee's efforts to accomplish the required divestiture; (2) the reasons, in the divestiture trustee's judgment, why the required divestitures have not been accomplished; and (3) the divestiture trustee's recommendations for completing the divestitures. Following receipt of that report, the United States may make additional recommendations to the Court. The Court thereafter may enter such orders as it deems appropriate to carry out the purpose of this Final Judgment, which may include extending the trust and the term of the divestiture trustee's appointment.

K. The divestiture trustee will serve until divestiture of all Divestiture Assets is completed or for a term otherwise ordered by the Court.

L. If the United States determines that the divestiture trustee is not acting diligently or in a reasonably cost-effective manner, the United States may recommend that the Court appoint a substitute divestiture trustee.

#### **VI. Notice of Proposed Divestiture**

A. Within two business days following execution of a definitive agreement to divest the Divestiture Assets to an Acquirer or Acquirers other than Viserion, Defendant ZGC or the divestiture trustee, whichever is then responsible for effecting the divestiture, must notify the United States of the proposed divestiture. If the divestiture trustee is responsible for completing the divestiture, the divestiture trustee also must notify Defendant ZGC. The notice must set forth the details of the proposed divestiture and list the name, address, and telephone number of each person not previously identified who offered or expressed an interest in or desire to acquire any ownership interest in the Divestiture Assets.

B. Within 15 calendar days of receipt by the United States of receipt of the notice required by Paragraph IV.A., the United States may request from Defendants, the proposed Acquirer, other third parties, or the divestiture trustee additional information concerning the proposed divestiture, the proposed Acquirer, and other prospective Acquirers. Defendants and the divestiture trustee must furnish the additional information requested within 15 calendar days of the receipt of the request unless the United States provides written agreement to a different period.

C. Within 45 calendar days after receipt of the notice required by Paragraph VI.A. or within 20 calendar days after the United States has been provided the additional information requested pursuant to Paragraph VI.B., whichever is later, the United States will provide written notice to Defendant ZGC and any divestiture trustee that states whether or not the United States, in its sole discretion, objects to an Acquirer or Acquirers or any other aspect of the proposed divestitures. Without written notice that the United States does not object, a divestiture may not be consummated. If the United States provides written notice that it does not object, the divestiture may be consummated, subject only to Defendants' limited right to object to the sale under Paragraph V.C. of this Final Judgment. Upon objection by

Defendants pursuant to Paragraph V.C., a divestiture by the divestiture trustee may not be consummated unless approved by the Court.

D. No information or documents obtained pursuant to this Section VI may be divulged by the United States to any person other than an authorized representative of the executive branch of the United States, except in the course of legal proceedings to which the United States is a party, including grand-jury proceedings, for the purpose of evaluating a proposed Acquirer or securing compliance with this Final Judgment, or as otherwise required by law.

E. In the event of a request by a third party for disclosure of information under the Freedom of Information Act, 5 U.S.C. 552, the United States Department of Justice's Antitrust Division will act in accordance with that statute, and the Department of Justice regulations at 28 CFR part 16, including the provision on confidential commercial information, at 28 CFR 16.7. Persons submitting information to the Antitrust Division should designate the confidential commercial information portions of all applicable documents and information under 28 CFR 16.7. Designations of confidentiality expire ten years after submission, "unless the submitter requests and provides justification for a longer designation period." See 28 CFR 16.7(b).

F. If at the time that a person furnishes information or documents to the United States pursuant to this Section VI, that person represents and identifies in writing information or documents for which a claim of protection may be asserted under Rule 26(c)(1)(G) of the Federal Rules of Civil Procedure, and marks each pertinent page of such material, "Subject to claim of protection under Rule 26(c)(1)(G) of the Federal Rules of Civil Procedure," the United States must give that person ten calendar days' notice before divulging the material in any legal proceeding (other than a grand-jury proceeding).

#### **VII. Financing**

Defendants may not finance all or any part of Acquirer's purchase of all or part of the Divestiture Assets.

#### **VIII. Asset Preservation and Hold Separate Obligations**

Defendants must take all steps necessary to comply with the Asset Preservation and Hold Separate Stipulation and Order entered by the Court.



## IX. Affidavits

A. Within 20 calendar days of the filing of the Complaint in this matter, and every 30 calendar days thereafter until the divestitures required by this Final Judgment have been completed, each Defendant must deliver to the United States an affidavit, signed by each Defendant's Chief Financial Officer and General Counsel, describing in reasonable detail the fact and manner of Defendants' compliance with this Final Judgment. The United States, in its sole discretion, may approve different signatories for the affidavits. Defendant Bunge's obligations under this Paragraph IX.A shall cease 30 calendar days after the closing of the Transaction.

B. Each affidavit required by Paragraph IX.A. must include: (1) The name, address, and telephone number of each person who, during the preceding 30 calendar days, made an offer to acquire, expressed an interest in acquiring, entered into negotiations to acquire, or was contacted or made an inquiry about acquiring, an interest in the Divestiture Assets and describe in detail each contact with such persons during that period; (2) a description of the efforts Defendants have taken to solicit buyers for and complete the sale of the Divestiture Assets and to provide required information to prospective Acquirers; and (3) a description of any limitations placed by Defendants on information provided to prospective Acquirers. Objection by the United States to information provided by Defendants to prospective Acquirers must be made within 14 calendar days of receipt of the affidavit, except that the United States may object at any time if the information set forth in the affidavit is not true or complete.

C. Defendants must keep all records of any efforts made to divest the Divestiture Assets until one year after the Divestiture Date.

D. Within 20 calendar days of the filing of the Complaint in this matter, each Defendant must also deliver to the United States an affidavit signed by each Defendant's Chief Financial Officer and General Counsel, describing in reasonable detail all actions Defendants have taken and all steps Defendants have implemented on an ongoing basis to comply with Section VIII of this Final Judgment. The United States, in its sole discretion, may approve different signatories for the affidavits.

E. If a Defendant makes any changes to the actions and steps outlined in any earlier affidavits provided pursuant to Paragraph IX.D., Defendants must, within 15 calendar days after any change is implemented, deliver to the

United States an affidavit describing those changes.

F. Defendants must keep all records of any efforts made to comply with Section VIII until one year after the Divestiture Date.

## X. Compliance Inspection

A. For the purpose of determining or securing compliance with this Final Judgment, or related orders such as the Hold Separate Stipulation and Order, or for the purpose of determining whether this Final Judgment should be modified or vacated, upon written request of an authorized representative of the Assistant Attorney General for the Antitrust Division, and reasonable notice to Defendants, Defendants must permit, from time to time and subject to legally recognized privileges, authorized representatives, including agents retained by the United States:

1. To have access during Defendants' office hours to inspect and copy, or at the option of the United States, to require Defendants to provide electronic copies of all books, ledgers, accounts, records, data, and documents in the possession, custody, or control of Defendants relating to any matters contained in this Final Judgment; and

2. to interview, either informally or on the record, Defendants' officers, employees, or agents, who may have their individual counsel present, relating to any matters contained in the Final Judgment. The interviews must be subject to the reasonable convenience of the interviewee and without restraint or interference by Defendants.

B. Upon the written request of an authorized representative of the Assistant Attorney General for the Antitrust Division, Defendants must submit written reports or respond to written interrogatories, under oath if requested, relating to any of the matters contained in this Final Judgment.

C. No information or documents obtained pursuant to this Section XI may be divulged by the United States to any person other than an authorized representative of the executive branch of the United States, except in the course of legal proceedings to which the United States is a party, including grand jury proceedings, for the purpose of securing compliance with this Final Judgment, or as otherwise required by law.

D. In the event of a request by a third party for disclosure of information under the Freedom of Information Act, 5 U.S.C. 552, the Antitrust Division will act in accordance with that statute, and the Department of Justice regulations at 28 CFR part 16, including the provision on confidential commercial information, at 28 CFR 16.7. Defendants submitting

information to the Antitrust Division should designate the confidential commercial information portions of all applicable documents and information under 28 CFR 16.7. Designations of confidentiality expire 10 years after submission, "unless the submitter requests and provides justification for a longer designation period." See 28 CFR 16.7(b).

E. If at the time that Defendants furnish information or documents to the United States pursuant to this Section X, Defendants represent and identify in writing information or documents for which a claim of protection may be asserted under Rule 26(c)(1)(G) of the Federal Rules of Civil Procedure, and Defendants mark each pertinent page of such material, "Subject to claim of protection under Rule 26(c)(1)(G) of the Federal Rules of Civil Procedure," the United States must give Defendants 10 calendar days' notice before divulging the material in any legal proceeding (other than a grand jury proceeding).

## XI. Notification

A. Unless a transaction is otherwise subject to the reporting and waiting period requirements of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, as amended, 15 U.S.C. 18a (the "HSR Act"), Defendant ZGC, may not, without first providing at least 30 calendar days advance notification to the United States, directly or indirectly acquire any assets of or any interest, including a financial, security, loan, equity, or management interest, in grain purchasing facilities, including grain elevators and crush mills, located within a 100-mile radius any Divested Elevator during the term of this Final Judgment; *provided, however*, that the obligations in this Section XI do not apply to Defendant ZGC's acquisition of grain purchasing facilities that were leased by Defendant ZGC as of January 1, 2021.

B. Defendant ZGC must provide the notification required by this Section XI in the same format as, and in accordance with the instructions relating to, the Notification and Report Form set forth in the Appendix to Part 803 of Title 16 of the Code of Federal Regulations as amended, except that the information requested in Items 5 through 8 of the instructions must be provided only about grain purchasing facilities located within a 100-mile radius of any Divested Elevator.

C. Notification must be provided at least 30 calendar days before acquiring any assets or interest, and must include, beyond the information required by the instructions, the names of the principal representatives who negotiated the



transaction on behalf of each party, and all management or strategic plans relating to the proposed transaction. If, within the 30 calendar days following notification, representatives of the United States make a written request for additional information, Defendant ZGC may not consummate the proposed transaction until 30 calendar days after submitting all requested information.

D. Early termination of the waiting periods set forth in this Section XI may be requested and, where appropriate, granted in the same manner as is applicable under the requirements and provisions of the HSR Act and rules promulgated thereunder. This Section XI must be broadly construed, and any ambiguity or uncertainty regarding whether to file a notice under this Section XI must be resolved in favor of filing notice.

#### **XII. Limitations on Reacquisition**

Defendant ZGC may not reacquire any part of or any interest in the Divestiture Assets during the term of this Final Judgment without prior authorization by the United States.

#### **XIII. Retention of Jurisdiction**

The Court retains jurisdiction to enable any party to this Final Judgment to apply to the Court at any time for further orders and directions as may be necessary or appropriate to carry out or construe this Final Judgment, to modify any of its provisions, to enforce compliance, and to punish violations of its provisions.

#### **XIV. Enforcement of Final Judgment**

A. The United States retains and reserves all rights to enforce the provisions of this Final Judgment, including the right to seek an order of contempt from the Court. Defendants agree that in a civil contempt action, a motion to show cause, or a similar action brought by the United States regarding an alleged violation of this Final Judgment, the United States may establish a violation of this Final Judgment and the appropriateness of a remedy therefor by a preponderance of the evidence, and Defendants waive any argument that a different standard of proof should apply.

B. This Final Judgment should be interpreted to give full effect to the procompetitive purposes of the antitrust laws and to restore the competition the United States alleges was harmed by the challenged conduct. Defendants agree that they may be held in contempt of, and that the Court may enforce, any provision of this Final Judgment that, as interpreted by the Court in light of these procompetitive principles and applying

ordinary tools of interpretation, is stated specifically and in reasonable detail, whether or not it is clear and unambiguous on its face. In any such interpretation, the terms of this Final Judgment should not be construed against either party as the drafter.

C. In an enforcement proceeding in which the Court finds that Defendants have violated this Final Judgment, the United States may apply to the Court for a one-time extension of this Final Judgment, together with other relief that may be appropriate. In connection with a successful effort by the United States to enforce this Final Judgment against a Defendant, whether litigated or resolved before litigation, that Defendant agrees to reimburse the United States for the fees and expenses of its attorneys, as well as all other costs including experts' fees, incurred in connection with that effort to enforce the Final Judgment, including in the investigation of the potential violation.

D. For a period of four years following the expiration of this Final Judgment, if the United States has evidence that a Defendant violated this Final Judgment before it expired, the United States may file an action against that Defendant in this Court requesting that the Court order: (1) Defendant to comply with the terms of this Final Judgment for an additional term of at least four years following the filing of the enforcement action; (2) all appropriate contempt remedies; (3) additional relief needed to ensure the Defendant complies with the terms of this Final Judgment; and (4) fees or expenses as called for by this Section XIV.

#### **XV. Expiration of Final Judgment**

Unless the Court grants an extension, this Final Judgment will expire 10 years from the date of its entry, except that after five years from the date of its entry, this Final Judgment may be terminated upon notice by the United States to the Court and Defendants that the divestitures have been completed and continuation of this Final Judgment no longer is necessary or in the public interest.

#### **XVI. Public Interest Determination**

Entry of this Final Judgment is in the public interest. The parties have complied with the requirements of the Antitrust Procedures and Penalties Act, 15 U.S.C. 16, including by making available to the public copies of this Final Judgment and the Competitive Impact Statement, public comments thereon, and any response to comments by the United States. Based upon the record before the Court, which includes the Competitive Impact Statement and,

if applicable, any comments and responses to comments filed with the Court, entry of this Final Judgment is in the public interest.

Date: \_\_\_\_\_

[Court approval subject to procedures of Antitrust Procedures and Penalties Act, 15 U.S.C. 16]

United States District Judge

#### **United States District Court for the District of Columbia**

United States of America, *Plaintiff*, v. *Zen-Noh Grain Corp.*, and *Bunge North America, Inc.*, *Defendants*.

Civil Action No.: 1:21-cv-1482-RJL  
Judge Richard J. Leon

#### **Competitive Impact Statement**

The United States of America, under Section 2(b) of the Antitrust Procedures and Penalties Act, 15 U.S.C. 16(b)-(h) (the "APPA" or "Tunney Act"), files this Competitive Impact Statement relating to the proposed Final Judgment submitted for entry in this civil antitrust proceeding.

#### **I. Nature and Purpose of the Proceeding**

On April 21, 2020, Zen-Noh Grain Corp. ("ZGC") agreed to acquire 35 operating and 13 idled U.S. grain elevators from Bunge North America, Inc. ("Bunge") for approximately \$300 million ("the Transaction"). The United States filed a civil antitrust Complaint on June 1, 2021, seeking to enjoin the proposed Transaction. The Complaint alleges that the likely effect of the Transaction would be to substantially lessen competition for purchases of corn and soybeans in nine geographic areas of the United States in violation of Section 7 of the Clayton Act, 15 U.S.C. 18.

At the same time the Complaint was filed, the United States filed a proposed Final Judgment and an Asset Preservation and Hold Separate Stipulation and Order ("Stipulation"), which are designed to address the anticompetitive effects of the Transaction. The proposed Final Judgment, explained more fully below, requires the Defendants to divest certain grain elevators and related assets of Bunge or ZGC affiliate CGB Enterprises, Inc. ("the Divestiture Assets") to Viserion Grain LLC and Viserion International Holdco LLC ("Viserion"), or to another acquirer or acquirers acceptable to the United States, within 30 calendar days after entry of the Stipulation.

Under the terms of the Stipulation, the Defendants will take certain steps to ensure that the Divestiture Assets remain independent; that all of the

Divestiture Assets remain economically viable, competitive, and saleable; that Defendants will preserve and maintain the Divestiture Assets; and that the level of competition that existed between Defendants prior to the Transaction is maintained during the pendency of the required divestiture.

The United States and Defendants have stipulated that the proposed Final Judgment may be entered after compliance with the APPA. Entry of the proposed Final Judgment will terminate this action, except that the Court will retain jurisdiction to construe, modify, or enforce the provisions of the Final Judgment and to punish violations thereof.

## II. Description of Events Giving Rise to the Alleged Violation

### (A) *The Defendants and the Proposed Transaction*

Defendant ZGC, headquartered in Covington, Louisiana, is a subsidiary of the National Federation of Agricultural Cooperative Associations of Japan. ZGC owns and operates a state-of-the-art export elevator located on the Mississippi River near Convent, Louisiana, from which it trades and exports corn, soybeans, sorghum, wheat, and grain by-products. Export elevators receive grain, largely via barge or rail, that has been purchased from farmers by inland elevators. Export elevators store the aggregated grain until it can be loaded onto ocean going ships. ZGC does not own any inland grain elevators and relies upon its affiliate, CGB Enterprises Inc. (“CGB”), to supply the majority of the corn, soybeans and other agricultural commodities ZGC exports annually from Convent. Post-acquisition, ZGC intends to lease the elevators that it proposes to acquire from Bunge to CGB to operate through CGB’s wholly owned subsidiary, Consolidated Grain and Barge Co.

CGB is a 50–50 joint venture between ZGC and Itochu Corporation, a global trading company. CGB operates more than 100 elevators in the United States, many of which are located along the Mississippi, Ohio, Arkansas, and Illinois Rivers. CGB is the fifth-largest grain company in the United States by storage capacity. CGB’s grain merchandisers are in daily contact with thousands of farmers, actively seeking to purchase grain from them. Currently, CGB sells approximately 60% of the grain it purchases to ZGC.

Defendant Bunge is the North American subsidiary of Bunge Limited. Bunge is a large agribusiness and food ingredient company that owns and operates grain elevators, oilseed

processing plants, and edible oil refineries, as well as grain export terminals. Bunge is the eighth-largest grain company in the United States by storage capacity. Post-acquisition, Bunge will continue to purchase grain in the United States via its export elevator on the Mississippi River in Destrehan, Louisiana and its export terminal in Longview, Washington (a joint venture with Itochu Corporation). In addition to the export terminals, Bunge will retain ownership interests in eight grain elevators in Illinois and Indiana.

The 35 operating elevators ZGC proposes to acquire from Bunge are located in nine states—Arkansas, Iowa, Illinois, Indiana, Kentucky, Louisiana, Missouri, Mississippi and Tennessee—primarily along the Mississippi River and its tributaries, and predominantly handle corn and soybeans.

### (B) *Relevant Markets and the Competitive Effects of the Transaction*

American consumers benefit from the productivity and efficiency of American farmers, who annually produce far more volume than needed to meet domestic demand. Corn and soybeans (collectively referred to here as “grain”) are the primary crops grown in the United States. American farmers produced 14.2 billion bushels of corn and 4.14 billion bushels of soybeans in 2020, and roughly one-quarter of these grains were exported. In the United States, grain may flow from the farm directly to end users like ethanol plants and feed mills, or farmers may sell their grain to nearby rail or river grain elevators, where it is stored, aggregated, and later transported by train or barge to more distant domestic end users or to port elevators for export.

More than 45% of the grain exported from the United States is shipped out from port elevator export terminals located at the mouth of the Mississippi River near the Gulf of Mexico. The vast majority of this grain is sourced from river elevators located along the Mississippi and its tributaries. These river elevators, found as far north as Minnesota, purchase grain from surrounding farms and load it onto barges for transport to port elevators. Nearly all of the elevators ZGC seeks to acquire from Bunge are river elevators located on the Mississippi or its tributaries.

The livelihood of farmers depends on their ability to sell the corn and soybeans they grow to purchasers who offer them the best price, net of transportation and other selling costs that farmers incur. Ethanol plants and feed and crush mills purchase grain and

process it into usable products such as soymeal or fuel. Rail and river elevators also purchase grain and store it until it is sold and transported to end users, in either domestic or export markets.

For convenience, some farmers may sell their grain to smaller, “country” elevators, located in closer proximity to the farmer than end users or rail and river elevators. Such elevators serve as grain collection and buying points in rural communities, and may provide other services like grain storage, drying, and conditioning services. Upon aggregating sufficient quantities of grain, or when market prices are most attractive, country elevators ultimately resell the grain to end users or to the larger rail or river elevators that can transport the grain to end users or export elevators.

Today, ZGC and its affiliate CGB compete against Bunge to purchase corn and soybeans from farmers. In particular, in nine geographic areas a Bunge river elevator and a nearby ZGC or CGB elevator represent two of only a handful of grain purchasing alternatives for area farmers. In those nine geographic areas, ZGC and Bunge currently compete aggressively to win farmers’ business by offering better prices and more attractive amenities such as faster grain drop-off services and better grain grading. Faster drop-off services mean farmers can get back to their fields more quickly and make better use of their trucks and employees, ultimately saving time and money. If one elevator is grading grain more harshly or inconsistently, which may lead to a lower price paid, the farmer has the option of selling to a competing elevator which may grade differently. The Transaction will eliminate competition between ZGC and Bunge in those locations. As result, many U.S. farmers are likely to receive lower prices and poorer quality service when seeking to sell their grain.

#### 1. Relevant Product Markets

ZGC (mainly through CGB) and Bunge own grain elevators, primarily located at rail terminals and along navigable rivers. They compete with other grain purchasers, including ethanol processors, feed mills, and crush processors, to purchase corn and soybeans from U.S. farmers, brokers, and country elevators. Corn and soybeans are each distinct products without reasonable substitutes, differing from other agricultural commodities and one another in their physical characteristics, means of production, uses, and pricing. Because of the length of growing seasons, and the suitability of corn and soybeans to certain climates

and regions, farmers of these crops would not switch to production of other agricultural commodities in sufficient numbers to render unprofitable a small but significant decrease in price by a hypothetical monopsonist of that crop. The purchase of corn and the purchase of soybeans for end use or for sale to the export market each constitute a relevant product market and line of commerce under Section 7 of the Clayton Act, 15 U.S.C. 18.

## 2. Relevant Geographic Markets

Farmers typically haul grain by truck to nearby elevators or end users. Transportation costs increase significantly with every mile the farmers must transport the grain to reach a purchaser, reducing the farmers' profits. Transporting grain also consumes farmers' time. For these reasons, a small change in price would not likely cause farmers to significantly expand the distance they are willing to drive to sell their grain. The distance a farmer is willing to drive is determined in large part by the second-closest potential purchaser, which is the best competitive threat to the purchaser closest to the farmer.

Rail or river elevators and other grain purchasing facilities, such as grain crush plants and ethanol plants, typically purchase grain from within the facility's draw area. "Draw area" is an industry term that describes the locations of farms from which the facility expects to acquire most of its grain. Each elevator or end user has a unique draw area due to characteristics such as surrounding road conditions, crop output, local topography, and proximity of competing purchasers. The draw area of a grain purchasing facility is determined by transportation time and costs and so is usually very localized.

The draw area of one grain facility frequently will overlap with that of another, resulting in competition between the facilities to purchase grain from farmers. Some farming areas of the country may be located such that they fall within the overlapping draw areas of only a few competing grain purchasing facilities. In particular, in the following areas where the Defendants' river elevators have overlapping draw areas, there are only a small number of grain purchasers competing to purchase farmers' corn and soybeans:

(a) The overlapping draw areas of elevators in the vicinity of McGregor, Iowa;

(b) The overlapping draw areas of elevators in the vicinity of Albany/Fulton, Illinois;

(c) The overlapping draw areas of elevators in the vicinity of Shawneetown, Illinois;

(d) The overlapping draw areas of elevators in the vicinity of Caruthersville, Missouri;

(e) The overlapping draw areas of elevators in the vicinity of Huffman, Arkansas;

(f) The overlapping draw areas of elevators in the vicinity of Osceola, Arkansas;

(g) The overlapping draw areas of elevators in the vicinity of Helena, Arkansas;

(h) The overlapping draw areas of elevators in the vicinity of Lake Providence, Louisiana; and

(i) The overlapping draw areas of elevators in the vicinity of Lettsworth, Louisiana.

These geographic areas satisfy the hypothetical monopsonist test (a "monopsonist" is a buyer that controls the purchases in a given market), the buyer-side counterpart to the hypothetical monopolist test. A hypothetical monopsonist of the purchase of corn or soybeans in each of these areas would impose at least a small but significant and non-transitory decrease in the price paid to farmers. Such a price decrease for these products would not be defeated by farmers selling to purchasers outside their local area due to the added costs of transportation. As farmers in these areas have already determined the best use of their farmland, a price decrease would also not be defeated by farmers' switching to growing alternative crops. Farmers currently growing corn or soybeans are unlikely to convert to production of other agricultural commodities in sufficient numbers to prevent a small but significant decrease in price. Nor could area farmers thwart a post-transaction price decrease by selling instead to local country elevators. Country elevators simply resell grain to river and rail elevators or to other end users; if Defendants lower prices post-transaction, country elevators would be forced to lower their own price to farmers to maintain profitability. Consequently, country elevators cannot mitigate a price decrease resulting from the Transaction. Therefore, each of the overlapping draw areas above constitute a relevant geographic market within the meaning of Section 7 of the Clayton Act, 15 U.S.C. 18, for the purposes of analyzing this transaction.

## 3. Competitive Effects

In the each of the nine relevant geographic markets, ZGC (and its affiliate CGB) and Bunge are two of a very small number of grain purchasers

competing to buy corn and soybeans; in two of these markets, CGB and Bunge are the only elevators available to area farmers. Farmers located within these geographic areas depend on this competition to obtain a competitive price for their grain. ZGC's acquisition of Bunge's elevators will substantially lessen competition for the purchase of corn and soybeans in these markets, enabling it to unilaterally depress prices paid to farmers for their crops.

Because there are few alternative grain purchasers within these geographic areas, purchases of grain are highly concentrated, with the Defendants accounting for a majority of corn and/or soybean purchases in a given year. For example, in 2019, the Defendants purchased upwards of 95% of the total corn and soybean output of farmers in Pemiscot County, Missouri; Pemiscot County falls within the draw area of Bunge's Caruthersville, Missouri river elevator, and the draw areas of CGB's Caruthersville and Cottonwood, Missouri river elevators.

By eliminating head-to-head competition between ZGC (and its affiliate CGB) and Bunge for grain purchases in these geographic markets, the Transaction would result in lower prices paid to farmers, lower quality of services offered to farmers at the grain origination elevators, and reduced choice of outlets for farmers to sell their grain. The Transaction would substantially lessen competition and harm the many farmers selling their crops to river elevators along the Mississippi River and its tributaries.

## 4. Entry

New entry and expansion by competitors likely will not be timely and sufficient in scope to prevent the likely anticompetitive effects of Defendant ZGC's acquisition of Bunge's elevators. Competitors are unlikely to construct new elevators in these geographic markets because of the high cost of construction and the difficulty of finding appropriate locations to build along the Mississippi or its tributaries. Even assuming such a location could be found and regulatory and permitting requirements could be fulfilled, constructing a river elevator would take approximately two years to complete.

## III. Explanation of the Proposed Final Judgment

The divestiture required by the proposed Final Judgment will remedy the loss of competition alleged in the Complaint by establishing an independent and economically viable competitor for the purchase of corn and soybeans in certain geographic markets

along the Mississippi and Ohio Rivers. The proposed Final Judgment requires the Defendants to divest nine elevators<sup>1</sup> in nine geographic markets within 30 days after the entry of the Stipulation by the Court to Viserion or another acquirer or acquirers approved by the United States. In each of those nine geographic markets, a Bunge elevator competes head to head with one or more ZGC or CGB elevators.

The Divestiture Assets include the real property and real property rights, fee simple interests; buildings, facilities, and other structures, including bins, silos, other grain storage facilities, and dock facilities associated with the nine grain elevators. The Divestiture Assets also encompass all existing grain inventories at the elevators, and all contracts (including grain contracts), contractual rights, and relationships, including customer and supplier relationships, and all other agreements, commitments, and understandings, including, supply agreements, teaming agreements, and leases, and all outstanding offers or solicitations to enter into a similar arrangement that relate exclusively to the elevators that will be divested.

The Divestiture Assets must be divested in such a way as to satisfy the United States in its sole discretion that the Divestiture Assets can and will be operated by the purchaser as a viable, ongoing business that can compete effectively in the market for the purchase of corn and the market for the purchase of soybeans. Defendants must take all reasonable steps necessary to accomplish the divestiture quickly and must cooperate with any acquirer.

If Defendants do not accomplish the divestiture within the period prescribed in the proposed Final Judgment, the proposed Final Judgment provides that the Court will appoint a divestiture trustee selected by the United States to execute the divestiture. If a divestiture trustee is appointed, the proposed Final Judgment provides that Defendant ZGC will pay all costs and expenses of the trustee. The divestiture trustee's commission will be structured so as to provide an incentive for the trustee based on the price obtained and the speed with which the divestiture is accomplished. After the divestiture

trustee's appointment becomes effective, the trustee will provide periodic reports to the United States setting forth his or her efforts to accomplish the divestiture. If the divestiture has not been accomplished at the end of six months, the divestiture trustee and the United States will make recommendations to the Court, which will enter such orders as appropriate, in order to carry out the purpose of the trust, including by extending the trust or the term of the divestiture trustee's appointment.

Under Paragraph IV.I. of the proposed Final Judgment, Defendants must cooperate with and assist the acquirer in identifying and, at the option of acquirer, hiring (1) all full time, part time, or contract employees employed at the divested elevators at any time between August 21, 2020, and the divestiture date; (2) all elevator managers, grain merchandisers, and elevator superintendents employed by Bunge or CGB whose job responsibilities are shared between or among divested elevators and any non-divested elevators, at any time between August 21, 2020, and the divestiture date; and (3) all regional managers employed by Bunge one organizational level above the elevator manager level, wherever located, whose job duties support the grain purchasing business of any of the Bunge elevators, at any time between August 21, 2020, and the divestiture date. Defendants must provide Viserion, or any other acquirer or acquirers, with information on these employees and are prohibited from interfering with the efforts of Viserion, or any other acquirer or acquirers, to hire them.

The proposed Final Judgment includes a non-solicit provision (Paragraph IV.I.6.) prohibiting the Defendants from attempting to rehire relevant personnel that have agreed to work for the acquirer, subject to certain narrow exceptions, such as if an individual is laid off by the acquirer. The non-solicit provision is limited in duration to 12 months, which is a length of time intended to encompass the first harvest season for which the acquirer will be operating the divested elevators. It is also limited in scope to apply only to certain relevant personnel—regional/general managers, elevator managers, merchandisers, bookkeepers, and site superintendents—the employees most intimately involved with farmer outreach and elevator operation. The categories of employees protected by the non-solicit provision are integral to maintaining customer relations while ownership of the assets is transitioning; elevator managers and the grain merchandisers, in particular, are needed to develop and keep strong customer

relationships to get grain into the elevators. Defendants are not restricted, however, from advertising employment openings using general solicitations or advertisements and rehiring relevant personnel who apply for an employment opening through a general solicitation or advertisement.

Under Paragraph IV.M. of the proposed Final Judgment, at the option of the acquirer or acquirers, and subject to approval by the United States in its sole discretion, Defendants must enter into one or more contracts to provide the acquirer or acquirers with transition services for back office, human resources, or information technology, for a period of up to six months after the divestiture occurs, on terms and conditions reasonably related to market conditions for the provision of the transition services. The transition services covered by the proposed Final Judgment are those that might reasonably be necessary to ensure that an acquirer or acquirers can readily and promptly use the assets to compete in the relevant markets.

For the term of the proposed Final Judgment, Paragraph XI.A. requires Defendant ZGC to provide at least 30 calendar days advance notification to the United States of its intent to directly or indirectly acquire any assets of, or any interest in, grain purchasing facilities located within a 100-mile radius any divested elevator. The notification requirement of Paragraph XI.A. applies to transactions that are not subject to the reporting and waiting period requirements of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, as amended, 15 U.S.C. 18a (the "HSR Act").<sup>2</sup> Notification of such non-reportable transactions is necessary because acquisition of a single elevator from another grain purchasing company is not uncommon in the grain industry, and such an acquisition, or even an acquisition of a small suite of elevators, likely would not meet the notification thresholds of the HSR Act, but nevertheless could have a substantial anticompetitive effect.

The proposed Final Judgment also contains provisions designed to promote compliance and make the enforcement of the Final Judgment as effective as possible. Paragraph XIV.A. provides that the United States retains and reserves all rights to enforce the provisions of the proposed Final Judgment, including its

<sup>1</sup> In Osceola, Arkansas, Bunge has two elevator locations, "Riverside," which as the name implies, abuts the Mississippi, and "Landside," a former soy crush plant located a bit inland from the river. Bunge currently operates the two locations as one combined entity, with Landside being used primarily for overflow storage in support of Riverside; similarly, the proposed Final Judgment and Stipulation view the two Bunge Osceola locations as one asset for purposes of remedying the likely harm from the proposed Transaction.

<sup>2</sup> Paragraph XI.M. exempts from this reporting requirement Defendant ZGC's acquisition of grain purchasing facilities that were leased by Defendant ZGC as of January 1, 2021. The United States has already accounted for ZGC's control over those assets in its competitive analysis of the Transaction and structuring of the divestiture.

rights to seek an order of contempt from the Court. Under the terms of this paragraph, Defendants have agreed that in any civil contempt action, any motion to show cause, or any similar action brought by the United States regarding an alleged violation of the Final Judgment, the United States may establish the violation and the appropriateness of any remedy by a preponderance of the evidence and that Defendants have waived any argument that a different standard of proof should apply. This provision aligns the standard for compliance obligations with the standard of proof that applies to the underlying offense that the compliance commitments address.

Paragraph XIV.B. provides additional clarification regarding the interpretation of the provisions of the proposed Final Judgment. The proposed Final Judgment was drafted to restore competition that would otherwise be harmed by the transaction. Defendants agree that they will abide by the proposed Final Judgment, and that they may be held in contempt of this Court for failing to comply with any provision of the proposed Final Judgment that is stated specifically and in reasonable detail, as interpreted in light of this procompetitive purpose.

Paragraph XIV.C. of the proposed Final Judgment provides that if the Court finds in an enforcement proceeding that Defendants have violated the Final Judgment, the United States may apply to the Court for a one-time extension of the Final Judgment, together with such other relief as may be appropriate. In addition, to compensate American taxpayers for any costs associated with investigating and enforcing violations of the proposed Final Judgment, Paragraph XIV.C. provides that in any successful effort by the United States to enforce the Final Judgment against a Defendant, whether litigated or resolved before litigation, that Defendants will reimburse the United States for attorneys' fees, experts' fees, and other costs incurred in connection with any enforcement effort, including the investigation of the potential violation.

Paragraph XIV.D. states that the United States may file an action against a Defendant for violating the Final Judgment for up to four years after the Final Judgment has expired or been terminated. This provision is meant to address circumstances such as when evidence that a violation of the Final Judgment occurred during the term of the Final Judgment is not discovered until after the Final Judgment has expired or been terminated or when there is not sufficient time for the

United States to complete an investigation of an alleged violation until after the Final Judgment has expired or been terminated. This provision, therefore, makes clear that, for four years after the Final Judgment has expired or been terminated, the United States may still challenge a violation that occurred during the term of the Final Judgment.

Finally, Section XV of the proposed Final Judgment provides that the Final Judgment will expire ten years from the date of its entry, except that after five years from the date of its entry, the Final Judgment may be terminated upon notice by the United States to the Court and Defendants that the divestiture has been completed and that the continuation of the Final Judgment is no longer necessary or in the public interest.

#### **IV. Remedies Available to Potential Private Litigants**

Section 4 of the Clayton Act, 15 U.S.C. 15, provides that any person who has been injured as a result of conduct prohibited by the antitrust laws may bring suit in federal court to recover three times the damages the person has suffered, as well as costs and reasonable attorneys' fees. Entry of the proposed Final Judgment neither impairs nor assists the bringing of any private antitrust damage action. Under the provisions of Section 5(a) of the Clayton Act, 15 U.S.C. 16(a), the proposed Final Judgment has no prima facie effect in any subsequent private lawsuit that may be brought against Defendants.

#### **V. Procedures Available for Modification of the Proposed Final Judgment**

The United States and Defendants have stipulated that the proposed Final Judgment may be entered by the Court after compliance with the provisions of the APPA, provided that the United States has not withdrawn its consent. The APPA conditions entry upon the Court's determination that the proposed Final Judgment is in the public interest.

The APPA provides a period of at least 60 days preceding the effective date of the proposed Final Judgment within which any person may submit to the United States written comments regarding the proposed Final Judgment. Any person who wishes to comment should do so within 60 days of the date of publication of this Competitive Impact Statement in the **Federal Register**, or the last date of publication in a newspaper of the summary of this Competitive Impact Statement, whichever is later. All comments received during this period will be

considered by the U.S. Department of Justice, which remains free to withdraw its consent to the proposed Final Judgment at any time before the Court's entry of the Final Judgment. The comments and the response of the United States will be filed with the Court. In addition, comments will be posted on the U.S. Department of Justice, Antitrust Division's internet website and, under certain circumstances, published in the **Federal Register**.

Written comments should be submitted to:

Robert Lepore, Chief, Transportation, Energy and Agriculture Section, Antitrust Division, U.S. Department of Justice, 450 Fifth Street NW, Suite 8000, Washington, DC 20530.

The proposed Final Judgment provides that the Court retains jurisdiction over this action, and the parties may apply to the Court for any order necessary or appropriate for the modification, interpretation, or enforcement of the Final Judgment.

#### **VI. Alternatives to the Proposed Final Judgment**

As an alternative to the proposed Final Judgment, the United States considered a full trial on the merits against Defendants. The United States could have continued the litigation and sought preliminary and permanent injunctions against ZGC's acquisition of grain elevators from Bunge. The United States is satisfied, however, that the divestiture of assets described in the proposed Final Judgment will remedy the anticompetitive effects alleged in the Complaint, preserving competition for the purchase of corn and soybeans in the nine relevant geographic markets along the Mississippi and Ohio Rivers. Thus, the proposed Final Judgment achieves all or substantially all of the relief the United States would have obtained through litigation, but avoids the time, expense, and uncertainty of a full trial on the merits of the Complaint.

#### **VII. Standard of Review Under the APPA for the Proposed Final Judgment**

The Clayton Act, as amended by the APPA, requires that proposed consent judgments in antitrust cases brought by the United States be subject to a 60-day comment period, after which the Court shall determine whether entry of the proposed Final Judgment "is in the public interest." 15 U.S.C. 16(e)(1). In making that determination, the Court, in accordance with the statute as amended in 2004, is required to consider:

(A) the competitive impact of such judgment, including termination of alleged violations, provisions for enforcement and

modification, duration of relief sought, anticipated effects of alternative remedies actually considered, whether its terms are ambiguous, and any other competitive considerations bearing upon the adequacy of such judgment that the court deems necessary to a determination of whether the consent judgment is in the public interest; and

(B) the impact of entry of such judgment upon competition in the relevant market or markets, upon the public generally and individuals alleging specific injury from the violations set forth in the complaint including consideration of the public benefit, if any, to be derived from a determination of the issues at trial.

15 U.S.C. 16(e)(1)(A) & (B). In considering these statutory factors, the Court's inquiry is necessarily a limited one as the government is entitled to "broad discretion to settle with the defendant within the reaches of the public interest." *United States v. Microsoft Corp.*, 56 F.3d 1448, 1461 (D.C. Cir. 1995); *United States v. U.S. Airways Grp., Inc.*, 38 F. Supp. 3d 69, 75 (D.D.C. 2014) (explaining that the "court's inquiry is limited" in Tunney Act settlements); *United States v. InBev N.V./S.A.*, No. 08–1965 (JR), 2009 U.S. Dist. LEXIS 84787, at \*3 (D.D.C. Aug. 11, 2009) (noting that a court's review of a consent judgment is limited and only inquires "into whether the government's determination that the proposed remedies will cure the antitrust violations alleged in the complaint was reasonable, and whether the mechanism to enforce the final judgment are clear and manageable").

As the U.S. Court of Appeals for the District of Columbia Circuit has held, under the APPA a court considers, among other things, the relationship between the remedy secured and the specific allegations in the government's complaint, whether the proposed Final Judgment is sufficiently clear, whether its enforcement mechanisms are sufficient, and whether it may positively harm third parties. *See Microsoft*, 56 F.3d at 1458–62. With respect to the adequacy of the relief secured by the proposed Final Judgment, a court may "not to make de novo determination of facts and issues." *United States v. W. Elec. Co.*, 993 F.2d 1572, 1577 (D.C. Cir. 1993) (quotation marks omitted); *see also Microsoft*, 56 F.3d at 1460–62; *United States v. Alcoa, Inc.*, 152 F. Supp. 2d 37, 40 (D.D.C. 2001); *United States v. Enova Corp.*, 107 F. Supp. 2d 10, 16 (D.D.C. 2000); *InBev*, 2009 U.S. Dist. LEXIS 84787, at \*3. Instead, "[t]he balancing of competing social and political interests affected by a proposed antitrust consent decree must be left, in the first instance, to the discretion of the Attorney General." *W. Elec. Co.*, 993

F.2d at 1577 (quotation marks omitted). "The court should bear in mind the flexibility of the public interest inquiry: The court's function is not to determine whether the resulting array of rights and liabilities is one that will best serve society, but only to confirm that the resulting settlement is within the reaches of the public interest." *Microsoft*, 56 F.3d at 1460 (quotation marks omitted). More demanding requirements would "have enormous practical consequences for the government's ability to negotiate future settlements," contrary to congressional intent. *Id.* at 1456. "The Tunney Act was not intended to create a disincentive to the use of the consent decree." *Id.*

The United States' predictions about the efficacy of the remedy are to be afforded deference by the Court. *See, e.g., Microsoft*, 56 F.3d at 1461 (recognizing courts should give "due respect to the Justice Department's . . . view of the nature of its case"); *United States v. Iron Mountain, Inc.*, 217 F. Supp. 3d 146, 152–53 (D.D.C. 2016) ("In evaluating objections to settlement agreements under the Tunney Act, a court must be mindful that [t]he government need not prove that the settlements will perfectly remedy the alleged antitrust harms[;] it need only provide a factual basis for concluding that the settlements are reasonably adequate remedies for the alleged harms.") (internal citations omitted); *United States v. Republic Servs., Inc.*, 723 F. Supp. 2d 157, 160 (D.D.C. 2010) (noting "the deferential review to which the government's proposed remedy is accorded"); *United States v. Archer-Daniels-Midland Co.*, 272 F. Supp. 2d 1, 6 (D.D.C. 2003) ("A district court must accord due respect to the government's prediction as to the effect of proposed remedies, its perception of the market structure, and its view of the nature of the case"). The ultimate question is whether "the remedies [obtained by the Final Judgment are] so inconsonant with the allegations charged as to fall outside of the 'reaches of the public interest.'" *Microsoft*, 56 F.3d at 1461 (quoting *W. Elec. Co.*, 900 F.2d at 309).

Moreover, the Court's role under the APPA is limited to reviewing the remedy in relationship to the violations that the United States has alleged in its complaint, and does not authorize the Court to "construct [its] own hypothetical case and then evaluate the decree against that case." *Microsoft*, 56 F.3d at 1459; *see also U.S. Airways*, 38 F. Supp. 3d at 75 (noting that the court must simply determine whether there is a factual foundation for the government's decisions such that its

conclusions regarding the proposed settlements are reasonable); *InBev*, 2009 U.S. Dist. LEXIS 84787, at \*20 ("the 'public interest' is not to be measured by comparing the violations alleged in the complaint against those the court believes could have, or even should have, been alleged"). Because the "court's authority to review the decree depends entirely on the government's exercising its prosecutorial discretion by bringing a case in the first place," it follows that "the court is only authorized to review the decree itself," and not to "effectively redraft the complaint" to inquire into other matters that the United States did not pursue. *Microsoft*, 56 F.3d at 1459–60.

In its 2004 amendments to the APPA, Congress made clear its intent to preserve the practical benefits of using consent judgments proposed by the United States in antitrust enforcement, Public Law. 108–237 § 221, and added the unambiguous instruction that "[n]othing in this section shall be construed to require the court to conduct an evidentiary hearing or to require the court to permit anyone to intervene." 15 U.S.C. 16(e)(2); *see also U.S. Airways*, 38 F. Supp. 3d at 76 (indicating that a court is not required to hold an evidentiary hearing or to permit intervenors as part of its review under the Tunney Act). This language explicitly wrote into the statute what Congress intended when it first enacted the Tunney Act in 1974. As Senator Tunney explained: "[t]he court is nowhere compelled to go to trial or to engage in extended proceedings which might have the effect of vitiating the benefits of prompt and less costly settlement through the consent decree process." 119 Cong. Rec. 24,598 (1973) (statement of Sen. Tunney). "A court can make its public interest determination based on the competitive impact statement and response to public comments alone." *U.S. Airways*, 38 F. Supp. 3d at 76 (citing *Enova Corp.*, 107 F. Supp. 2d at 17).

#### VIII. Determinative Documents

There are no determinative materials or documents within the meaning of the APPA that were considered by the United States in formulating the proposed Final Judgment.

Dated: June 1, 2021.

Respectfully submitted,

Jill Ptacek,  
U.S. Department of Justice Antitrust Division,  
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[FR Doc. 2021–11916 Filed 6–7–21; 8:45 am]

BILLING CODE 4410–11–P

## DEPARTMENT OF JUSTICE

### Drug Enforcement Administration

[Docket No. 17–31]

#### Jennifer L. St. Croix, M.D.; Order Denying Motion To Stay

##### I. Introduction

On April 12, 2021, I issued a Decision and Order revoking, effective May 12, 2021, Certificate of Registration No. FS2669868 issued to Jennifer L. St. Croix, M.D. (hereinafter, Petitioner) at a registered address in Tennessee. *Jennifer L. St. Croix, M.D.*, 86 FR 19010 (April 12, 2021) (hereinafter, April 12, 2021 Decision/Order). On May 6, 2021, Petitioner's Counsel filed by email with the Drug Enforcement Administration Office of the Administrative Law Judges (hereinafter, OALJ) a Motion to Stay Enforcement Pending Appeal (hereinafter, Motion to Stay) and served by email the Drug Enforcement Administration Office of Chief Counsel (hereinafter, DEA or Government). The OALJ forwarded the Motion to Stay to my office. On May 7, 2021, I ordered the Government to respond to Petitioner's Motion to Stay no later than 5:00 p.m. on Monday, May 10, 2021. The Government filed a timely response (hereinafter, Govt Opposition), arguing that the Motion to Stay should be denied.

Later in the day of May 7, 2021, the United States Department of Justice alerted my office that Petitioner had filed a *pro se* petition with the District of Columbia Circuit Court of Appeals for review of my April 12, 2021 Decision/Order. Petition for Review of Agency Decision, *St. Croix v. United States Drug Enforcement Administration*, 21–1116 (dated May 5, 2021) (hereinafter, Review Petition). Petitioner identified her address on her Review Petition to be in Las Vegas, Nevada. Review Petition, at 1.

Having considered the merits of Petitioner's Motion to Stay and of the Government's Response in conjunction with the record evidence, I deny Petitioner's Motion to Stay.

##### II. The April 12, 2021 Decision/Order

Petitioner requested a hearing on the allegations that the Order to Show Cause (hereinafter, OSC) made against her. 86 FR at 19011. She attended the hearing with her attorney. *Id.* at 19018. After the Government rested,

Petitioner's counsel made a motion for summary disposition. *Id.* at 19017–18. After the Chief Administrative Law Judge (hereinafter, ALJ) heard from both the Petitioner's and the Government's counsels on the motion, he ruled on the motion from the bench, denying it in part and reserving it in part. *Id.* Petitioner then advised the Chief ALJ that she chose not to present a case. *Id.* at 19018. Following discussion about that decision, Petitioner sought and obtained from the Chief ALJ time to consult with her attorney. *Id.* After the opportunity to consult, Petitioner restated her decision not to put on a case. *Id.* Accordingly, Petitioner knowingly declined the opportunity to offer documentary evidence and oral testimony for the record.

In my April 12, 2021 Decision/Order, I found that Petitioner “had committed such acts as would render . . . [her] registration inconsistent with the public interest.” 21 U.S.C. 824(a)(4). The acts alleged in the OSC for which I found the Government had submitted substantial evidentiary support for the record and had proven were legal violations were (1) that Petitioner issued controlled substance prescriptions for no legitimate purpose and outside the usual course of professional practice, (2) that Petitioner failed to maintain medical records pertaining to her prescribing of controlled substances, (3) that Petitioner provided misleading information to investigating DEA agents, (4) that Petitioner failed to provide fully-compliant controlled substance prescription drug logs to DEA for periods during which she issued controlled substance prescriptions, (5) that Petitioner stored controlled substances at an unregistered location, and (6) that Petitioner failed to provide effective controls or procedures to guard against the theft or diversion of controlled substances. 86 FR at 19019–21, 19023–25. I did not find substantial evidence and/or a legal basis to support the OSC's allegations (1) that Petitioner had continued to issue controlled substance prescriptions to individuals who are intimate or close acquaintances, and to an individual with whom she had a “romantic interaction,” (2) that Petitioner violated 21 U.S.C. 843(a)(4)(A) by failing to comply with the terms of her June 2011 Memorandum of Agreement (hereinafter, MOA) with DEA, (3) that Petitioner did not maintain records of the controlled substances she dispensed, and (4) that Petitioner did not conduct an initial inventory of the controlled substances she received. *Id.* at 19019–20, 19022–25.

In adjudicating the OSC issued to Petitioner, I found that Petitioner made legal arguments that conflict with a core principle of the Controlled Substances Act (hereinafter, CSA)—the establishment of a closed regulatory system devised to “prevent the diversion of drugs from legitimate to illicit channels.” *Gonzales v. Raich*, 545 U.S. 1, 13–14, 27 (2005). I found that Petitioner proposed a course of action regarding the storage of controlled substances that would be a danger to public health and safety as it would allow the storage of controlled substances anywhere, as long as no dispensing took place at the location. 86 FR at 19024. I declined to accept Petitioner's arguments, concluding that to do so would conflict with my authority under the CSA and would establish a dangerous policy. *Id.*

In my adjudication of the OSC issued to Petitioner, I also determined that Petitioner urged me to accept positions that minimize statutory and regulatory inventory requirements. *Id.* I rejected those positions as well.

##### III. Petitioner's Motion To Stay

Petitioner argues that there are multiple reasons why her Motion to Stay satisfies the applicable legal standard and why I should grant her requested relief. First, she argues that there is a substantial likelihood that her review petition will prevail because she has had “no further issues regarding her prescribing and management of controlled substances . . . over the past seven years.” Motion to Stay, at 3. Petitioner also argues that the reviewing Circuit Court will find in her favor because the penalty I assessed in my April 12, 2021 Decision/Order “is excessive, unjust, and disproportionate to her actions” based on her “review of other administrative actions against physicians.” *Id.* at 4.

Second, Petitioner posits that she will suffer irreparable injury if enforcement of my April 12, 2021 Decision/Order is not stayed. “It would be difficult,” the Motion to Stay argues, “to overstate the impact that the loss of her [DEA registration] would have on . . . [her] ability to earn a living.” *Id.* She states that enforcement of my April 12, 2021 Decision/Order “will result in the immediate loss of her current position and essentially make her unemployable as a physician.” *Id.* She also states that she “will not be able to recover her lost income that will result from her sudden unemployment” and that a stay of enforcement “would allow . . . [her] to continue to support herself while she explores other employment opportunities.” *Id.* at 5.



Third, Petitioner argues that no party “will be harmed if the enforcement of the . . . [April 12, 2021 Decision/Order] is stayed.” *Id.* In support of this argument, Petitioner states that the enforcement proceeding never “alleged that any action or omission by . . . [her] resulted in harm to any person,” and that DEA “did not apparently see . . . [her] as posing any kind of imminent threat or danger to her . . . patients, as it never sought any sort of injunction or immediate suspension of her certificate.” *Id.* She also argues that “no parties have been harmed in the past and there is no likelihood that any parties would be harmed if a stay of enforcement is granted.” *Id.* at 6.

Fourth, Petitioner states in her Motion to Stay that the “public interest is in allowing an experienced practitioner to keep practicing in a medical specialty that is urgently needed during a global pandemic.”<sup>1</sup> *Id.* at 6. Petitioner indicates that she would like “to at least give proper notice to her employer and allow sufficient time to try and find a suitable employment.” *Id.* Petitioner’s definition of “proper notice” appears to be connected to “at least until this action has been finally concluded.” *Id.* at 7. Petitioner also claims that, “as she is a woman of Asian descent, . . . [she] is particularly suited to provide compassionate and understanding treatment to patients who have been the victim of ongoing racial/ethnic prejudices, as she herself has experienced these prejudices herself.” *Id.* at 6.

#### IV. The Government’s Opposition to the Motion to Stay

As already discussed, the Government opposes Petitioner’s Motion to Stay. *Supra* section I. Regarding whether Petitioner is likely to prevail on appeal, the Government states that the Motion to Stay “assigns no legal or factual errors to the Acting Administrator’s decision.” Govt Opposition, at 3. It argues that Petitioner’s Motion to Stay “points (without analysis or comparison) to a single court of appeals decision finding that the Agency’s decision to revoke a practitioner’s registration was ‘arbitrary.’” *Id.* (citing *Morall v. Drug Enf’t Admin.*, 412 F.3d 165, 181 (D.C. Cir. 2005)). According to the Government, “*Morall* offers . . . [Petitioner] here no relief” because, “as the D.C. Circuit has since reiterated, ‘under the Administrative Procedure Act, the [Agency’s] choice of sanction is

entitled to substantial deference.’” Govt Opposition, at 3 (citing *Chien v. Drug Enf’t Admin.*, 533 F.3d 828, 835 (D.C. Cir. 2008) (quoting *Morall*, 412 F.3d at 177)). The Government’s Opposition states that an “Agency’s sanction decision is ‘arbitrary’ only if it is a ‘flagrant departure from DEA policy and practice . . . and if the departure is not only unexplained, but entirely unrecognized in the [Agency’s] decision.’” Govt Opposition, at 3–4 (citing *Chien*, 533 F.3d at 836 (quoting *Morall*, 412 F.3d at 183) (emphasis added by the Government)). The Government concludes that Petitioner has not shown that the April 12, 2021 Decision/Order was “arbitrary” and that she “‘has not established a serious question going to the merits of [her] appeal, much less a substantial likelihood of success on the merits of [her] petition for review to warrant the issuance of a stay.’” Govt Opposition, at 3, 5 (quoting *Medicine Shoppe-Jonesborough*, Motion to Stay Denial, 73 FR 3997, 3998 (2008)).

Regarding whether Petitioner’s Motion to Stay demonstrates irreparable harm, the Government argues that it does not, because it “offers no evidence in support” of its claims that revocation “would ‘result in the immediate loss of her current position and essentially make her unemployable as a physician.’” Govt Opposition, at 5 (citing *Medicine Shoppe-Jonesborough*, 73 FR at 3998). The Government concludes that Petitioner’s allegations of harm are “entirely speculative and, as importantly, unsubstantiated.” Govt Opposition, at 6.

#### V. The Applicable Legal Standard

The Supreme Court has addressed the purpose of stays and the legal standard for the evaluation of motions to stay. In *Scripps-Howard Radio, Inc. v. Fed. Communications Comm’n*, the Supreme Court ruled that “it is reasonable that an appellate court should be able to prevent irreparable injury to the parties or to the public resulting from the premature enforcement of a determination which may later be found to have been wrong . . . [and it] has always been held, therefore, that, as part of its traditional equipment for the administration of justice, a federal court can stay the enforcement of a judgment pending the outcome of an appeal.” 316 U.S. 4, 9–10 (1942).

In 2009, the Supreme Court provided the legal standard applicable to Petitioner’s Motion to Stay. *Nken v. Holder*, 556 U.S. 418 (2009). According to *Nken*, four factors guide a court’s exercise of discretion to stay enforcement of an order pending

review, and the party requesting the stay “bears the burden of showing that the circumstances justify an exercise of that discretion.” 556 U.S. at 433–34. The four factors are “(1) whether the stay applicant has made a strong showing that he is likely to succeed on the merits; (2) whether the applicant will be irreparably injured absent a stay; (3) whether issuance of the stay will substantially injure the other parties interested in the proceeding; and (4) where the public interest lies.” *Id.* at 434. According to the Court, the “first two factors of the traditional standard are the most critical.” *Id.* If the applicant satisfies the first two factors, “the traditional stay inquiry calls for assessing the harm to the opposing party and weighing the public interest.” *Id.* at 435. When the Government is the opposing party, these two factors merge. *Id.*

#### VI. Application of the Legal Standard to Petitioner’s Motion to Stay

Having analyzed the Motion to Stay, the Government’s Opposition, and the entire record in this matter, I find that Petitioner has not met her burden of showing that the circumstances justify an exercise of my discretion to stay, pending appellate review, enforcement of the sanction I ordered on April 12, 2021. *Id.* at 433–34.

Regarding whether there is a substantial likelihood that Petitioner will prevail on the merits, even if Petitioner had substantiated her argument, which she did not, that she has had “no further issues regarding her prescribing and management of controlled substances” for the last seven years, her argument is irrelevant to my adjudication of the OSC and to the Circuit Court’s review of my Decision/Order.<sup>2</sup> The OSC at issue, dated April 12, 2017, and the adjudication of that OSC concern Petitioner’s unlawful and allegedly unlawful acts during a specified period before April 12, 2017. As such, Petitioner’s argument that she has had “no further issues regarding her prescribing and management of controlled substances” since the date of the OSC is of no relevance.

For the portion of the alleged seven-year period that is before the date of the OSC, I note that neither this Agency nor any other federal law enforcement agency is required to bring all possible charges against any subject at one time. *See, e.g., Heckler v. Chaney*, 470 U.S.

<sup>1</sup> According to the Motion to Stay, Petitioner is “actively engaged in the care and treatment of individuals in desperate need of medical care, and . . . does not pose any immediate danger to the community.” Motion to Stay, at 6.

<sup>2</sup> Petitioner likely referenced “seven” years because the record evidence includes a three-year MOA between Petitioner and DEA dated June 2011. DEA issued her the Tennessee-based registration, whose revocation is effective tomorrow, because she agreed to the MOA’s terms.



821, 831 (1985) (“This Court has recognized on several occasions over many years that an agency’s decision not to prosecute or enforce, whether through civil or criminal process, is a decision generally committed to an agency’s absolute discretion.”). Instead, agencies exercise their investigative and prosecutorial discretion based on matters such as enforcement priorities and the availability of resources. *See, e.g., id.* at 831–32.

Further, Petitioner has had, and continues to have, the option of submitting an application for a new DEA registration. The Agency’s decisions make clear that an applicant’s past actions that violate the law need not result in her being denied a DEA registration indefinitely. *See, e.g., Michele L. Martinho, M.D.*, 86 FR 24012 (2021).

Regarding her allegation that the sanction I assessed in my April 12, 2021 Decision/Order is “excessive, unjust, and disproportionate to her actions,” Petitioner neither submitted evidence for the record during the hearing on the OSC nor now submits evidence that substantiates it. My April 21, 2021 Decision/Order, however, explains how violations that I found Petitioner had committed go to the heart of the CSA and its implementing regulations, and rejects her arguments that minimize applicable legal requirements. *See, e.g.*, 86 FR at 19024. Accordingly, I do not find persuasive Petitioner’s arguments that there is a substantial likelihood that she will prevail on the merits upon appellate review, and I reject them.

Petitioner’s irreparable injury arguments are predictions that she does not tether to existing or new record evidence. For example, as already discussed, Petitioner provides an address for herself in Las Vegas, Nevada in the *pro se* review petition she recently filed in the District of Columbia Circuit. *Supra* n.1. There is no record evidence, and she submitted no new evidence along with this or her Review Petition filing, that Petitioner is registered in Nevada or even that she is licensed to practice medicine in Nevada. Petitioner’s irreparable injury arguments related to any future loss by her of earned income, therefore, are without a sufficient basis in record evidence. Accordingly, I reject them.

Further, Petitioner’s loss of earned income claims are of a generic nature that any practitioner whose registration had been revoked or suspended could make. Even if Petitioner had submitted record evidence substantiating these predictions, the CSA does not direct me to consider her loss of earned income or potential loss of earned income.

Accordingly, I do not accept Petitioner’s irreparable injury arguments.

*Nken* makes clear that the “first two factors of the traditional standard are the most critical.” 556 U.S. at 434. It also explains that, if the applicant satisfies the first two factors, “the traditional stay inquiry calls for assessing the harm to the opposing party and weighing the public interest.” *Id.* at 435. Here, Petitioner has not satisfied either of the first two factors. Supreme Court case law makes clear that I need not address Petitioner’s arguments regarding the third and fourth stay factors. *Id.* For the sake of having a complete record, however, I shall do so.

Assuming, *arguendo*, the accuracy of Petitioner’s arguments that she has never been accused of harming a person, and of her suggestion that the third factor addresses such harm, I find that the legal violations I sustained in my April 12, 2021 Decision/Order do not include harm to a person among their elements. Accordingly, I find Petitioner’s third factor arguments to be irrelevant, and I reject them.

Fourth, even if the record evidence substantiates Petitioner’s public interest claims, which it does not, the Agency has rejected community impact arguments. *See, e.g., Perry County Food & Drug*, 80 FR 70084 (2015). Accordingly, I reject Petitioner’s public interest arguments.

Having determined that Petitioner has not met her burden of showing that the circumstances justify an exercise of my discretion to stay enforcement of the sanction I ordered on April 12, 2021, pending appellate review, I deny her Motion to Stay.

It is so ordered.

Dated: May 11, 2021.

**D. Christopher Evans,**  
*Acting Administrator.*

[FR Doc. 2021–11982 Filed 6–7–21; 8:45 am]

**BILLING CODE 4410–09–P**

## DEPARTMENT OF JUSTICE

[OMB Number 1103–0102]

### Agency Information Collection Activities; Proposed eCollection eComments Requested; Community Oriented Policing Services (COPS) Progress Report

**AGENCY:** Community Oriented Policing Services, Department of Justice.

**ACTION:** 60-Day notice.

**SUMMARY:** The Office of Community Oriented Policing Services (COPS), Department of Justice (DOJ), will be submitting the following information

collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995.

**DATES:** The purpose of this notice is to allow for an additional 60 days for public comment August 9, 2021.

**FOR FURTHER INFORMATION CONTACT:** If you have comments especially on the estimated public burden or associated response time, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact Lashon M. Hilliard, Department of Justice Office of Community Oriented Policing Services, 145 N Street NE, Washington, DC 20530, 202–305–5245.

Written comments and/or suggestions can also be directed to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention Department of Justice Desk Officer, Washington, DC 20530 or sent to [OIRA\\_submissions@omb.eop.gov](mailto:OIRA_submissions@omb.eop.gov).

**SUPPLEMENTARY INFORMATION:** Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency’s estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses.

### Overview of This Information Collection

(1) *Type of Information Collection:* Revision of a currently approved collection.

(2) *Title of the Form/Collection:* COPS Progress Report.

(3) *Agency form number:* 1103–0102 U.S. Department of Justice Office of Community Oriented Policing Services.

(4) *Affected public who will be asked or required to respond, as well as a brief*

*abstract:* Primary: Law Enforcement Agencies.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond/reply:*

There will be approximately 1,424 awardees submitting a COPS Progress Report on a semi-annually basis, or 4,042 responses annually. The average estimated time to complete a progress report is 35 minutes per awardee submission.

(6) *An estimate of the total public burden (in hours) associated with the collection:*

0.4167 hours per respondent × 1424 respondents × 2 (semi-annually response) = 2,848 annual hours

*Total Annual Respondent Burden:* 2,848 hours.

If additional information is required contact: Melody D. Braswell, Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Two Constitution Square, 145 N Street NE, Room 3E.405A, Washington, DC 20530.

Dated: June 3, 2021.

**Melody D. Braswell,**

*Department Clearance Officer for PRA, U.S. Department of Justice.*

[FR Doc. 2021-11963 Filed 6-7-21; 8:45 am]

**BILLING CODE 4410-AT-P**

## DEPARTMENT OF JUSTICE

[OMB Control No. 1103-NEW]

### Information Collection; Improving Customer Experience (OMB Circular A-11, Section 280 Implementation)

**AGENCY:** Office of the Chief Information Officer, Department of Justice.

**ACTION:** 60-Day notice.

**SUMMARY:** The Department of Justice as part of its continuing effort to reduce paperwork and respondent burden, is announcing an opportunity for public comment on a new proposed collection of information by the Agency. Under the Paperwork Reduction Act of 1995 (PRA), Federal Agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, and to allow 60 days for public comment in response to the notice. This notice solicits comments on new collection proposed by the Agency.

**DATES:** Submit comments on or before: August 9, 2021.

**ADDRESSES:** Submit comments identified by Information Collection 1103-NEW, Improving Customer Experience (OMB Circular A-11,

Section 280 Implementation), by any of the following methods:

- **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.

- **Mail:** General Services Administration, Regulatory Secretariat Division (MVCB), 1800 F Street NW, Washington, DC 20405. ATTN: Ms. Mandell/IC 1103-NEW, A-11 Section 280 Improving Customer Experience.

**Instructions:** Please submit comments only and cite Information Collection 1103-NEW, Improving Customer Experience (OMB Circular A-11, Section 280 Implementation), in all correspondence related to this collection. To confirm receipt of your comment(s), please check [regulations.gov](https://www.regulations.gov), approximately two-to-three business days after submission to verify posting (except allow 30 days for posting of comments submitted by mail).

#### SUPPLEMENTARY INFORMATION:

##### A. Purpose

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. "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 provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, GSA is publishing notice of the proposed collection of information set forth in this document.

Whether seeking a loan, Social Security benefits, veteran's benefits, or other services provided by the Federal Government, individuals and businesses expect Government customer services to be efficient and intuitive, just like services from leading private-sector organizations. Yet the 2016 American Consumer Satisfaction Index and the 2017 Forrester Federal Customer Experience Index show that, on average, Government services lag nine percentage points behind the private sector.

A modern, streamlined and responsive customer experience means: Raising government-wide customer experience to the average of the private sector service industry; developing indicators for high-impact Federal programs to monitor progress towards excellent customer experience and mature digital services; and providing the structure (including increasing transparency) and resources to ensure customer experience is a focal point for agency leadership. To support this, OMB Circular A-11 Section 280 established government-wide standards for mature customer experience organizations in government and measurement. To enable Federal programs to deliver the experience taxpayers deserve, they must undertake three general categories of activities: Conduct ongoing customer research, gather and share customer feedback, and test services and digital products.

These data collection efforts may be either qualitative or quantitative in nature or may consist of mixed methods. Additionally, data may be collected via a variety of means, including but not limited to electronic or social media, direct or indirect observation (*i.e.*, in person, video and audio collections), interviews, questionnaires, surveys, and focus groups. The De will limit its inquiries to data collections that solicit strictly voluntary opinions or responses. Steps will be taken to ensure anonymity of respondents in each activity covered by this request.

The results of the data collected will be used to improve the delivery of Federal services and programs. It will include the creation of personas, customer journey maps, and reports and summaries of customer feedback data and user insights. It will also provide government-wide data on customer experience that can be displayed on [performance.gov](https://www.performance.gov) to help build transparency and accountability of Federal programs to the customers they serve.

##### Method of Collection

The Department will collect this information by electronic means when possible, as well as by mail, fax, telephone, technical discussions, and in-person interviews. The Department may also utilize observational techniques to collect this information.

##### Data

*Form Number(s):* None.

*Type of Review:* New.

## B. Annual Reporting Burden

*Affected Public:* Collections will be targeted to the solicitation of opinions from respondents who have experience with the program or may have experience with the program in the near future. For the purposes of this request, “customers” are individuals, businesses, and organizations that interact with a Federal Government agency or program, either directly or via a Federal contractor. This could include individuals or households; businesses or other for-profit organizations; not-for-profit institutions; State, local or tribal governments; Federal government; and Universities.

*Estimated Number of Respondents:* 2,001,550.

*Estimated Time per Response:* Varied, dependent upon the data collection method used. The possible response time to complete a questionnaire or survey may be 3 minutes or up to 1.5 hours to participate in an interview.

*Estimated Total Annual Burden Hours:* 101,125.

*Estimated Total Annual Cost to Public:* \$0.

## C. Public Comments

The Department invites comments on:

- Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- the accuracy of the agency’s estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: June 2, 2021.

**Melody Braswell,**

*Department Clearance Officer for PRA, U.S. Department of Justice.*

[FR Doc. 2021-11893 Filed 6-7-21; 8:45 am]

**BILLING CODE 4410-02-P**

## DEPARTMENT OF JUSTICE

[OMB Number 1122-NEW]

### Agency Information Collection Activities; Proposed eCollection eComments Requested

**AGENCY:** Office on Violence Against Women, Department of Justice.

**ACTION:** 60-Day notice.

**SUMMARY:** The Department of Justice, Office on Violence Against Women (OVW) will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995.

**DATES:** Comments are encouraged and will be accepted for 60 days until August 9, 2021.

**FOR FURTHER INFORMATION CONTACT:** Written comments and/or suggestion regarding the items contained in this notice, especially the estimated public burden and associated response time, should be directed to Cathy Poston, Office on Violence Against Women, at 202-514-5430 or [Catherine.poston@usdoj.gov](mailto:Catherine.poston@usdoj.gov).

**SUPPLEMENTARY INFORMATION:** Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency’s estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

### Overview of This Information Collection

(1) *Type of Information Collection:* New collection.

(2) *Title of the Form/Collection:* Advocate Skill & Knowledge Needs Assessment.

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* 1122-NEW. Sponsoring agency: U.S. Department of Justice, Office on Violence Against Women, which has supplied grant funds to the National Crime Victim Law Institute for a project of which the proposed survey is one component.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Established in 1995, OVW administers financial and technical assistance to communities across the country that are developing programs, policies, and practices that combat domestic/dating violence, sexual assault, and stalking. OVW administers both formula-based and discretionary grant programs, established under the Violence Against Women Act (VAWA) and subsequent legislation. Recipients of OVW funds work through a coordinated community response to support victims and hold perpetrators accountable. The National Crime Victim Law Institute (NCVLI) receives funding to provide training and technical assistance to help community-based and system-based advocates work collaboratively to support victims, particularly with regard to their legal rights in criminal justice. The training and technical assistance OVW award granted to NCVLI is the first award focused on system-based advocates and the dynamic relationship between system-based advocates and their community partners.

The purpose of this collection is two-fold: (1) To determine front-line advocates’ (both system and community based) existing knowledge regarding victims’ legal rights, particularly in criminal justice processes; and (2) the existence (or non-existence) and quality of relationships between community- and system-based advocates in a jurisdiction that can aid appropriate referrals for coordinated or complementary services. This collection will identify existing skills and knowledge as well as gaps, together with barriers to meaningful collaboration among and between advocates. This collection is critical because effective advocacy that promotes survivor agency and physical and emotional safety requires collaboration and coordination of community-based and system-based advocates and training and technical assistance provided should fill gaps and build upon existing knowledge and skills. The collection tool was developed in collaboration with an Advisory Committee of subject matter experts after determining that there has

been no comparable assessment of knowledge and skills conducted to date. The Advisory Committee developed the collection tool to ensure its language is accessible and understandable to advocates; its questions will result in collection of data needed to identify gaps in knowledge and skills; and its structure is streamlined to ease burden. The information will be used by NCVLI to determine what training and technical assistance (TTA) is needed to ensure that communities have collaborative partnerships between community-based and system-based advocates and other service professionals in order to provide trauma-informed and survivor-centered services regarding victims' rights. This information will be used by OVW to ensure grantees are received targeted, informed training and technical assistance from NCVLI to ensure that grantees' professional and community needs are being met. The collection will be national in scope and will inform the development of TTA for NCVLI's national Project as well as future OVW criminal justice response programs.

The affected public are victim advocates (both system-based and community-based).

**Explain Why Information Is Necessary, How It Will Be Collected (Electronically), How It Will Be Used**

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond/reply:* It is estimated that it will take the hoped for 150 respondents approximately 10 minutes each to complete this one-time online survey, which will ask respondents about their knowledge of existing victims' rights laws as well as to evaluate their collaborative relationships. The survey will be a mix of multiple-choice, Likert scale and short narrative response questions. The information gathered will identify skill and knowledge gaps that can be addressed by OVW's Improving Criminal Justice Response TTA Program.

(6) *An estimate of the total public burden (in hours) associated with the collection:* The total hour burden of this one-time data collection is 25 hours (150 respondents each taking 10 minutes each). Respondents will be responding to this information collection once.

If additional information is required contact: Melody Braswell, Deputy Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Two Constitution

Square, 145 N Street NE, 3E, 405B, Washington, DC 20530.

Dated: June 2, 2021.

**Melody Braswell,**

*Department Clearance Officer, PRA, U.S. Department of Justice.*

[FR Doc. 2021-11892 Filed 6-7-21; 8:45 am]

**BILLING CODE 4410-FX-P**

**NATIONAL AERONAUTICS AND SPACE ADMINISTRATION**

[Notice: 21-034]

**Deep Space Food Challenge Phase 1 Extended Deadline**

**AGENCY:** National Aeronautics and Space Administration (NASA).

**ACTION:** Notice of extension of the registration deadline for Deep Space Food Challenge Phase 1.

**SUMMARY:** The National Aeronautics and Space Administration (NASA) announces an extension of the Deep Space Food Challenge Phase 1 registration deadline for U.S. and non-Canadian International teams to June 25, 2021.

**DATES:** Challenge registration for Phase 1 opened January 12, 2021, and will remain open until the deadlines stated below. No further requests for registration will be accepted after the stated deadline.

Other important dates:

June 25, 2021—Phase 1 Registration Closes for U.S. & Non-Canadian International Teams

July 30, 2021—Submissions Due for all Teams

September 2021—Winner(s) Announced

**FOR FURTHER INFORMATION CONTACT:** To register for or get additional information regarding the Deep Space Food Challenge, please visit:

[www.deepspacefoodchallenge.org](http://www.deepspacefoodchallenge.org). For general information on NASA Centennial Challenges please visit: <http://www.nasa.gov/challenges>.

General questions and comments regarding the program should be addressed to Monsi Roman, Centennial Challenges Program Manager, NASA Marshall Space Flight Center Huntsville, AL 35812, Phone (256) 544-4071, Email address: [hq-stmd-centennialchallenges@mail.nasa.gov](mailto:hq-stmd-centennialchallenges@mail.nasa.gov). For general information on the Canadian Space Agency please visit: <https://www.canada.ca/en/space-agency.html>.

General questions and comments regarding the program should be addressed to [ASC.DefiAEL-DSFChallenge.CSA@canada.ca](mailto:ASC.DefiAEL-DSFChallenge.CSA@canada.ca).

**SUPPLEMENTARY INFORMATION:**

**Summary**

Phase 1 of the Deep Space Food Challenge will be conducted virtually. The Challenge competitors will develop and submit their design proposals from their own location.

The original registration deadline was released in the **Federal Register** on January 15, 2021. *Ref: Federal Register/ Vol. 86, No. 10/Friday, January 15, 2021/Notices; pages 4131-4132.*

**Cheryl Parker,**

*NASA Federal Register Liaison Officer.*

[FR Doc. 2021-11905 Filed 6-7-21; 8:45 am]

**BILLING CODE 7510-13-P**

**NATIONAL CREDIT UNION ADMINISTRATION**

**Sunshine Act Meetings**

**TIME AND DATE:** 10:00 a.m., Thursday, June 10, 2021.

**PLACE:** Due to the COVID-19 Pandemic, the meeting will be held via teleconference.

**STATUS:** Closed.

**MATTERS TO BE CONSIDERED:**

1. Board Appeal. Closed pursuant to Exemption (8).

**CONTACT PERSON FOR MORE INFORMATION:** Melane Conyers-Ausbrooks, Secretary of the Board, Telephone: 703-518-6304.

**Melane Conyers-Ausbrooks,**

*Secretary of the Board.*

[FR Doc. 2021-12047 Filed 6-4-21; 11:15 am]

**BILLING CODE 7535-01-P**

**NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES**

**National Endowment for the Arts**

**Subject 30-Day Notice for the "CARES Act Funding Survey"**

**AGENCY:** National Endowment for the Arts, National Foundation on the Arts and the Humanities.

**ACTION:** Notice.

**SUMMARY:** The National Endowment for the Arts (NEA), as part of its continuing effort to reduce paperwork and respondent burden, conducts a preclearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995. This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial

resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. Currently, the NEA is soliciting comments concerning the proposed information collection for the CARES Act Funding Survey for state arts agencies. Copies of this ICR, with applicable supporting documentation, may be obtained by visiting [www.Reginfo.gov](http://www.Reginfo.gov)

**DATES:** Written comments must be submitted to the office listed in the address section below within 30 days from the date of this publication in the **Federal Register**.

**ADDRESSES:** Written comments and recommendations for proposed information collection requests should be sent within 30 days of publication of this Notice to [www.reginfo.gov/public/do/PRAMain](http://www.reginfo.gov/public/do/PRAMain). Find this particular information collection request by selecting “National Endowment for the Arts” under “Currently Under Review;” then check “Only Show ICR for Public Comment” checkbox. Once you have found this information collection request, select “Comment,” and enter or upload your comment and information. Alternatively, comments can be sent to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for the National Endowment for the Arts, Office of Management and Budget, Room 10235, Washington, DC 20503, or call (202) 395–7316, within 30 days from the date of this publication in the **Federal Register**.

**SUPPLEMENTARY INFORMATION:** The NEA is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency’s estimate of the burden of the proposed collection of information including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses.

*Agency:* National Endowment for the Arts.

*Title:* CARES Act Funding Survey.

*OMB Number:* New.

*Frequency:* One-time web survey.

*Affected Public:* State art agency staff members.

*Estimated Number of Respondents:* 62.

*Total Burden Hours:* 279 hours (62 responses, average of 4.5 hours).

*Total annualized capital/startup costs:* 0.

*Total annual costs (operating/maintaining systems or purchasing services):* \$45,000 (one-time costs).

The planned data collection is a new information collection request, and the data to be collected are not available elsewhere unless obtained through this information collection. A web-based survey of state arts agencies and regional arts organizations is planned to be administered once during summer 2021, contingent upon OMB approval. Knowledge gained through this information collection will enable the Arts Endowment to collect information on emergency relief funding provided by the Coronavirus Aid, Relief, and Economic Security Act (CARES Act) to state-level and regional subgrantees from the Arts Endowment. Currently, the Arts Endowment does not collect any information from state arts agencies or regional arts organizations related to the benefits of the CARES Act funding awarded to states and regions.

The National Endowment for the Arts is compelled by Congress to obligate 40 percent of its program budget to state arts agencies and regional arts organizations through Partnership Agreements (20 U.S.C. 954(g)). In turn, state arts agencies and regional arts organizations use these funds to support state and regional grantmaking and other programming, “developing projects and productions in the arts in such a manner as will furnish adequate programs, facilities, and services in the arts to all the people and communities in each of the several States.” (20 U.S.C. 954. (g)(1)). For regular Partnership Agreements, states, jurisdictions and regions are required to report subgrantee data to the National Endowment for the Arts.

As part of the stimulus package passed by Congress in April 2020, the CARES Act appropriated \$75 million to the Arts Endowment for emergency relief. 40 percent of these funds were directed to state arts agencies and regional arts organizations to be distributed for emergency grantmaking. After the National Assembly of State Arts Agencies (NASAA) conducted a listening session on June 24, 2020 with executive directors of state arts agencies, based on OMB guidance to federal

agencies in administering and implementing relief funding, the administration emphasized minimal burden to expedite implementing funding decisions, which gave agencies leeway in determining appropriate transparency and accountability mechanisms.

With this guidance, the National Endowment for the Arts determined that there would be no additional reporting requirements associated with these emergency funds in order to minimize burdens of during the pandemic. CARES funds were administered to state arts agencies and regional art organizations via amendments to FY 2019 partnership agreements, which are reported to the Arts Endowment annually in Final Descriptive Reports (OMB Control Number 3135–0140). However, Final Descriptive Reports do not contain data describing jobs and facility or infrastructure investments, which were the primary purpose of CARES Act dollars to state arts agencies. In an effort to understand the benefits and outcomes of emergency relief funds going to the 56 states and jurisdictions, and six regions, the Arts Endowment partnered with NASAA to survey state arts agencies and regional arts organizations to collect data on the how subgrantees used CARES Act funding.

The NEA intends to examine the outcomes of CARES Act funding on subgrantees of state arts agencies and regional arts organizations to understand how these funds were used to support arts organizations and benefit the public.

The Arts Endowment’s Office of Research & Analysis decided to survey state arts agencies and regional arts organizations because it would fill a gap in knowledge of the 40 percent of CARES Act funding allocated to states and regions. The questions in the survey will capture the jobs subgrantees were able to maintain or create, and the amount invested in infrastructure, as a result of CARES Act emergency relief. The survey will also provide an opportunity to share any additional qualitative or quantitative subgrantee data related to CARES Act funding that state arts agencies have collected.

NASAA will report the survey data to the public in the aggregate and the Arts Endowment will include an analysis of subgrantee data along with direct grantee data to understand and track outcomes on CARES Act funding. The primary indicators will be the number of jobs created or maintained by grantees and subgrantees (full time and part time), and the facilities/ infrastructure supported with CARES Act dollars.

This request is for a full clearance to conduct a web survey.

Dated: June 2, 2021.

**Meghan Jugder,**

*Support Services Specialist, Office of Administrative Services & Contracts National Endowment for the Arts.*

[FR Doc. 2021-11901 Filed 6-7-21; 8:45 am]

**BILLING CODE 7537-01-P**

## **NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES**

### **National Endowment for the Arts**

#### **Subject 60-Day Notice for the "Grant Applicant Research and Evaluation Ethics Review"**

**AGENCY:** National Endowment for the Arts, National Foundation on the Arts and the Humanities.

**ACTION:** Notice.

**SUMMARY:** The National Endowment for the Arts (NEA), as part of its continuing effort to reduce paperwork and respondent burden, conducts a preclearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995. This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. Currently, the NEA is soliciting comments concerning the proposed information collection regarding research and evaluation ethics for grant applicants to the NEA for external funding programs other than research programs and who propose research and evaluation activities in their project. A copy of the current information collection request can be obtained by contacting the office listed below in the address section of this notice.

**DATES:** Written comments must be submitted to the office listed in the address section below within 60 days from the date of this publication in the **Federal Register**.

**ADDRESSES:** Send comments to Sunil Iyengar, National Endowment for the Arts, via email ([research@arts.gov](mailto:research@arts.gov)).

**SUPPLEMENTARY INFORMATION:** The NEA is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the

functions of the agency, including whether the information will have practical utility;

- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses.

Dated: June 2, 2021.

**Meghan Jugder,**

*Support Services Specialist, Office of Administrative Services & Contracts, National Endowment for the Arts.*

[FR Doc. 2021-11895 Filed 6-7-21; 8:45 am]

**BILLING CODE 7537-01-P**

## **NATIONAL TRANSPORTATION SAFETY BOARD**

### **Sunshine Act Meeting**

**TIME AND DATE:** 9:30am, Tuesday, June 29, 2021.

**PLACE:** Virtual.

**STATUS:** The one item may be viewed by the public through webcast only.

**MATTERS TO BE CONSIDERED:**

67259 Marine Accident Report—Capsizing and Sinking of the Commercial Fishing Vessel Scandies Rose, Sutwik Island, Alaska, December 31, 2019.

**CONTACT PERSON FOR MORE INFORMATION:**

Candi Bing at (202) 590-8384 or by email at [bingc@ntsb.gov](mailto:bingc@ntsb.gov).

*Media Information Contact:* Eric Weiss by email at [eric.weiss@ntsb.gov](mailto:eric.weiss@ntsb.gov) or at (202) 314-6100.

This meeting will take place virtually. The public may view it through a live or archived webcast by accessing a link under "Webcast of Events" on the NTSB home page at [www.nts.gov](http://www.nts.gov).

There may be changes to this event due to the evolving situation concerning the novel coronavirus (COVID-19). Schedule updates, including weather-related cancellations, are also available at [www.nts.gov](http://www.nts.gov).

The National Transportation Safety Board is holding this meeting under the Government in the Sunshine Act, 5 U.S.C. 552(b).

Dated: June 4, 2021.

**Candi R. Bing,**

*Federal Register Liaison Officer.*

[FR Doc. 2021-12111 Filed 6-4-21; 4:15 pm]

**BILLING CODE 7533-01-P**

## **NUCLEAR REGULATORY COMMISSION**

**[EA-20-084; NRC-2021-0115]**

### **In the Matter of CampCo Incorporated**

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Order; issuance.

**SUMMARY:** The U.S. Nuclear Regulatory Commission (NRC) is issuing an Order to CampCo, Inc., imposing a civil penalty of \$75,000. On February 11, 2021, the NRC issued a Notice of Violation and Proposed Imposition of Civil Penalty—\$75,000 to CampCo, Inc., for failing to comply with regulatory requirements regarding the import and distribution of watches containing radioactive material.

**DATES:** The Order imposing civil monetary penalty of \$75,000 was issued on June 3, 2021.

**ADDRESSES:** Please refer to Docket ID NRC-2021-0115 when contacting the NRC about the availability of information regarding this document. You may obtain publicly available information related to this document using any of the following methods:

- *Federal Rulemaking Website:* Go to <https://www.regulations.gov> and search for Docket ID NRC-2021-0115. Address questions about Docket IDs in *Regulations.gov* to Stacy Schumann; telephone: 301-415-0624; email: [Stacy.Schumann@nrc.gov](mailto:Stacy.Schumann@nrc.gov). For technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.

- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly available documents online in the ADAMS Public Document collection at <https://www.nrc.gov/reading-rm/adams.html>. To begin the search, select "Begin Web-based ADAMS Search." For problems with ADAMS, contact the NRC's Public Document Room (PDR) reference staff at 1-800-397-4209, 301-415-4737, or by email to [pdr.resource@nrc.gov](mailto:pdr.resource@nrc.gov). The Order imposing civil monetary penalty is available in ADAMS under Accession No. ML21139A318.

- *Attention:* The PDR, where you may examine and order copies of public documents, is currently closed. You may submit your request to the PDR via

email at [pdr.resource@nrc.gov](mailto:pdr.resource@nrc.gov) or call 1-800-397-4209 or 301-415-4737, between 8:00 a.m. and 4:00 p.m. (EST), Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:**

Leelavathi Sreenivas, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555-001; telephone: 301-287-9249, email: [Leelavathi.Sreenivas@nrc.gov](mailto:Leelavathi.Sreenivas@nrc.gov).

**SUPPLEMENTARY INFORMATION:** The text of the Order is attached.

Dated: June 3, 2021.

For the Nuclear Regulatory Commission.

**Anton Vegel,**

*Acting Director, Office of Enforcement.*

**Attachment—Order Imposing Civil Monetary Penalty**

**United States of America Nuclear Regulatory Commission**

In the Matter of CAMPCO, INC. LOS ANGELES, CALIFORNIA

Docket Number: 03036619

License Number: 04-23910-01E

EA-20-084

**Order Imposing Civil Monetary Penalty**

**I**

CampCo, Inc. (Licensee) is the holder of Materials License No. 04-23910-01E issued by the U.S. Nuclear Regulatory Commission (NRC or Commission) pursuant to Part 30 of Title 10 of the *Code of Federal Regulations* (10 CFR). The license was initially issued on October 12, 2004, and Amendment No.5 was issued on October 22, 2018. The license authorizes distribution of watches containing radioactive material (hydrogen-3, also known as tritium) to unlicensed persons in accordance with the conditions specified in the license. The Licensee facility is currently located in Los Angeles, California.

**II**

U.S. Nuclear Regulatory Commission's (NRC's) Office of Investigations initiated an investigation on June 20, 2017, and the NRC staff initiated an inspection at the Licensee's facility in Los Angeles, California, on May 11, 2017, with subsequent records review, conducted from May 11, 2017, to September 3, 2020. The purpose of the investigation and inspection was to examine activities conducted under the license and to verify the Licensee's compliance with the Confirmatory Order Modifying License, dated June 20, 2016, issued under previous Enforcement Action EA-14-080.

The results of the investigation and inspection indicated that the Licensee had not conducted its activities in full

compliance with NRC requirements. The NRC determined that nine violations of NRC requirements occurred, involving multiple failures (including several repeat failures from EA-14-080) to comply with the license and regulations, failure to provide complete and accurate information to the NRC, and failure to comply with the Confirmatory Order.

A written Notice of Violation and Proposed Imposition of Civil Penalty (Notice) was served upon the Licensee by letter dated February 11, 2021. The Notice states the nature of the violations, the provisions of the NRC's requirements that the Licensee violated, and the amount of the civil penalty proposed for the violations.

The Licensee responded to the Notice in a letter dated March 8, 2021. In its response, the Licensee stated that they believed the civil penalty was not consistent with NRC policy and not justified by the violations that occurred.

**III**

After consideration of the Licensee's response and the statements of fact, explanation, and argument for mitigation contained therein, the NRC staff has, as set forth in the Appendix to this Order, determined that the violations occurred as stated and that the penalty proposed for the violations identified in the Notice should be imposed.

**IV**

In view of the foregoing and pursuant to Section 234 of the Atomic Energy Act of 1954, as amended (Act), 42 U.S.C. 2282, and 10 CFR 2.205, *It is hereby ordered that:*

The Licensee pay a civil penalty in the amount of \$75,000 within 30 days of the date of this Order, in accordance with NUREG/BR-0254, "Payment Methods." (<https://www.nrc.gov/reading-rm/doc-collections/nuregs/brochures/br0254/index.html>). In addition, at the time payment is made, the Licensee shall submit a statement indicating when and by what method payment was made to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, One White Flint North, 11555 Rockville Pike, Rockville, MD 20852-2738.

**V**

In accordance with 10 CFR 2.202, "Orders," the Licensee must, and any other person adversely affected by this Order may, submit an answer to this Order within 30 days of the date of the Order. In addition, the Licensee and any other person adversely affected by this Order may request a hearing on this

Order within 30 days of the date of the Order. Where good cause is shown, consideration will be given to extending the time to answer or request a hearing. A request for extension of time must be directed to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, and include a statement of good cause for the extension.

All documents filed in NRC adjudicatory proceedings including documents filed by an interested State, local governmental body, Federally recognized Indian Tribe, or designated agency thereof that requests to participate under 10 CFR 2.315(c), must be filed in accordance with 10 CFR 2.302. The E-Filing process requires participants to submit and serve all adjudicatory documents over the internet, or in some cases, to mail copies on electronic storage media, unless an exemption permitting an alternative filing method, as discussed below, is granted. Detailed guidance on electronic submissions is located in the Guidance for Electronic Submissions to the NRC (ADAMS Accession No. ML13031A056) and on the NRC website at <https://www.nrc.gov/site-help/e-submittals.html>.

To comply with the procedural requirements of E-Filing, at least 10 days prior to the filing deadline, the participant should contact the Office of the Secretary by email at [hearing.docket@nrc.gov](mailto:hearing.docket@nrc.gov), or by telephone at 301-415-1677, to (1) request a digital identification (ID) certificate, which allows the participant (or its counsel or representative) to digitally sign submissions and access the E-Filing system for any proceeding in which it is participating; and (2) advise the Secretary that the participant will be submitting a petition or other adjudicatory document (even in instances in which the participant, or its counsel or representative, already holds an NRC-issued digital ID certificate). Based upon this information, the Secretary will establish an electronic docket for the proceeding if the Secretary has not already established an electronic docket.

Information about applying for a digital ID certificate is available on the NRC's public website at <https://www.nrc.gov/site-help/e-submittals/getting-started.html>. After a digital ID certificate is obtained and a docket created, the participant must submit adjudicatory documents in Portable Document Format. Guidance on the NRC's public website at <https://www.nrc.gov/site-help/electronic-sub-ref-mat.html>. A filing is considered complete at the time the document is submitted through the



NRC's E-Filing system. To be timely, an electronic filing must be submitted to the E-Filing system no later than 11:59 p.m. Eastern Time on the due date. Upon receipt of a transmission, the E-Filing system time-stamps the document and sends the submitter an email confirming receipt of the document. The E-Filing system also distributes an email that provides access to the document to the NRC's Office of the General Counsel and any others who have advised the Office of the Secretary that they wish to participate in the proceeding, so that the filer need not serve the document on those participants separately. Therefore, applicants and other participants (or their counsel or representative) must apply for and receive a digital ID certificate before adjudicatory documents are filed to obtain access to the documents via the E-Filing system.

A person filing electronically using the NRC's adjudicatory E-Filing system may seek assistance by contacting the NRC's Electronic Filing Help Desk through the "Contact Us" link located on the NRC's public website at <https://www.nrc.gov/site-help/e-submittals.html>, by email to [MSHD.Resource@nrc.gov](mailto:MSHD.Resource@nrc.gov), or by a toll-free call at 1-866-672-7640. The NRC Electronic Filing Help Desk is available between 9 a.m. and 6 p.m., Eastern Time, Monday through Friday, excluding government holidays.

Participants who believe that they have good cause for not submitting documents electronically must file an exemption request, in accordance with 10 CFR 2.302(g), with their initial paper filing stating why there is good cause for not filing electronically and requesting authorization to continue to submit documents in paper format. Such filings must be submitted in accordance with 10 CFR 2.302(b)-(d). Participants filing adjudicatory documents in this manner are responsible for serving their documents on all other participants. Participants granted an exemption under 10 CFR 2.302(g)(2) must still meet the electronic formatting requirement in 10 CFR 2.302(g)(1), unless the participant also seeks and is granted an exemption from 10 CFR 2.302(g)(1).

Documents submitted in adjudicatory proceedings will appear in the NRC's electronic hearing docket, which is publicly available at <https://adams.nrc.gov/ehd>, unless excluded pursuant to an order of the presiding officer. If you do not have an NRC-issued digital ID certificate as described above, click "cancel" when the link requests certificates and you will be automatically directed to the NRC's electronic hearing dockets where you will be able to access any publicly

available documents in a particular hearing docket. Participants are requested not to include personal privacy information such as social security numbers, home addresses, or personal phone numbers in their filings unless an NRC regulation or other law requires submission of such information. With respect to copyrighted works, except for limited excerpts that serve the purpose of the adjudicatory filings and would constitute a Fair Use application, participants should not include copyrighted materials in their submission.

If a person other than CampCo, Inc. requests a hearing, that person shall set forth with particularity the manner in which his interest is adversely affected by this Order and shall address the criteria set forth in 10 CFR 2.309(d) and (f).

If a hearing is requested by a licensee or a person whose interest is adversely affected, the Commission will issue an Order designating the time and place of any hearings. If a hearing is held, the issue to be considered at such hearing shall be whether this Order should be sustained. Pursuant to 10 CFR 2.202(c)(2)(i), CampCo, Inc. or any other person adversely affected by this Order, may, in addition to demanding a hearing, at the time the answer is filed or sooner, move the presiding officer on the ground that the Order is not based on adequate evidence but on mere suspicion, unfounded allegations, or error. In the absence of any request for hearing, or written approval of an extension of time in which to request a hearing, the provisions specified in Section IV above shall be final 30 days from the date this Order is published in the **Federal Register** without further order or proceedings. If an extension of time for requesting a hearing has been approved, the provisions specified in Section IV shall be final when the extension expires if a hearing request has not been received. If payment has not been made by the time specified above, the matter may be referred to the Attorney General, for collection.

Dated this 3rd day of June 2021.

For the Nuclear Regulatory Commission

**Anton Vogel,**

*Acting Director, Office of Enforcement.*

[FR Doc. 2021-12009 Filed 6-7-21; 8:45 am]

**BILLING CODE 7590-01-P**

## OFFICE OF PERSONNEL MANAGEMENT

### Submission for Review: Financial Resources Questionnaire (RI 34-1, RI 34-17, and RI 34-18) and Notice of Amount Due Because of Annuity Overpayment (RI 34-3, RI 34-19, and RI 34-20)

**AGENCY:** Office of Personnel Management.

**ACTION:** 60-Day notice and request for comments.

**SUMMARY:** Retirement Services, Office of Personnel Management (OPM) offers the general public and other federal agencies the opportunity to comment on an expiring information collection (ICR) with minor edits, Financial Resources Questionnaire (RI 34-1, RI 34-17, and RI 34-18) and Notice of Amount Due Because Of Annuity Overpayment (RI 34-3, RI 34-19, and RI 34-20). This ICR has been revised in the following manner: The display of the OMB control number and an updated edition date.

**DATES:** Comments are encouraged and will be accepted until August 9, 2021.

**ADDRESSES:** You may submit comments, identified by docket number and/or Regulatory Information Number (RIN) and title, by the following method:

—*Federal Rulemaking Portal:* <http://www.regulations.gov>. Follow the instructions for submitting comments.

All submissions received must include the agency name and docket number or RIN for this document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing at <http://www.regulations.gov> as they are received without change, including any personal identifiers or contact information.

**FOR FURTHER INFORMATION CONTACT:** A copy of this ICR with applicable supporting documentation, may be obtained by contacting the Retirement Services Publications Team, Office of Personnel Management, 1900 E Street NW, Room 3316-L, Washington, DC 20415, Attention: Cyrus S. Benson, or sent via electronic mail to [Cyrus.Benson@opm.gov](mailto:Cyrus.Benson@opm.gov) or faxed to (202) 606-0910 or via telephone at (202) 606-4808.

**SUPPLEMENTARY INFORMATION:** As required by the Paperwork Reduction Act of 1995 (Pub. L. 104-13, 44 U.S.C. chapter 35) as amended by the Clinger-Cohen Act (Pub. L. 104-106), OPM is soliciting comments for this collection (OMB No. 3206-0167). The Office of



Management and Budget is particularly interested in comments that:

1. Evaluate whether the proposed collection of information is necessary for the proper performance of functions of the agency, including whether the information will have practical utility;

2. Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

3. Enhance the quality, utility, and clarity of the information to be collected; and

4. Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses.

RI 34-1 (Financial Resources Questionnaire), RI 34-17 (Financial Resources Questionnaire—Federal Employees' Group Life Insurance Premiums Underpaid), and RI 34-18 (Financial Resources Questionnaire—Federal Employees Health Benefits Premiums Underpaid), collects detailed financial information for use by OPM to determine whether to agree to a waiver, compromise, or adjustment of the collection of erroneous payments from the Civil Service Retirement and Disability Fund. RI 34-3 (Notice of Amount Due Because Of Annuity Overpayment), RI 34-19 (Notice of Amount Due Because of FEGLI Premium Underpayment), and RI 34-20 (Notice of Amount Due Because of FEHB Premium Underpayment), informs the annuitant about the overpayment and collects information from the annuitant about how repayment will be made.

#### Analysis

*Agency:* Retirement Operations, Retirement Services, Office of Personnel Management.

*Title:* Financial Resources Questionnaire/Notice of Debt Due Because of Annuity Overpayment.

*OMB Number:* 3206-0167.

*Frequency:* On occasion.

*Affected Public:* Individuals or Households.

*Number of Respondents:* 2,081.

*Estimated Time per Respondent:* 60 minutes.

*Total Burden Hours:* 2,081 hours.

Office of Personnel Management.

**Alexys Stanley,**

*Regulatory Affairs Analyst.*

[FR Doc. 2021-11970 Filed 6-7-21; 8:45 am]

**BILLING CODE 6325-38-P**

## POSTAL REGULATORY COMMISSION

[Docket Nos. CP2020-83; MC2021-95 and CP2021-98; MC2021-96 and CP2021-99; MC2021-97 and CP2021-100]

### New Postal Products

**AGENCY:** Postal Regulatory Commission.

**ACTION:** Notice.

**SUMMARY:** The Commission is noticing a recent Postal Service filing for the Commission's consideration concerning a negotiated service agreement. This notice informs the public of the filing, invites public comment, and takes other administrative steps.

**DATES:** *Comments are due:* June 10, 2021.

**ADDRESSES:** Submit comments electronically via the Commission's Filing Online system at <http://www.prc.gov>. Those who cannot submit comments electronically should contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section by telephone for advice on filing alternatives.

**FOR FURTHER INFORMATION CONTACT:** David A. Trissell, General Counsel, at 202-789-6820.

#### SUPPLEMENTARY INFORMATION:

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- I. Introduction
- II. Docketed Proceeding(s)

#### I. Introduction

The Commission gives notice that the Postal Service filed request(s) for the Commission to consider matters related to negotiated service agreement(s). The request(s) may propose the addition or removal of a negotiated service agreement from the market dominant or the competitive product list, or the modification of an existing product currently appearing on the market dominant or the competitive product list.

Section II identifies the docket number(s) associated with each Postal Service request, the title of each Postal Service request, the request's acceptance date, and the authority cited by the Postal Service for each request. For each request, the Commission appoints an officer of the Commission to represent the interests of the general public in the proceeding, pursuant to 39 U.S.C. 505 (Public Representative). Section II also establishes comment deadline(s) pertaining to each request.

The public portions of the Postal Service's request(s) can be accessed via the Commission's website (<http://www.prc.gov>). Non-public portions of the Postal Service's request(s), if any,

can be accessed through compliance with the requirements of 39 CFR 3011.301.<sup>1</sup>

The Commission invites comments on whether the Postal Service's request(s) in the captioned docket(s) are consistent with the policies of title 39. For request(s) that the Postal Service states concern market dominant product(s), applicable statutory and regulatory requirements include 39 U.S.C. 3622, 39 U.S.C. 3642, 39 CFR part 3030, and 39 CFR part 3040, subpart B. For request(s) that the Postal Service states concern competitive product(s), applicable statutory and regulatory requirements include 39 U.S.C. 3632, 39 U.S.C. 3633, 39 U.S.C. 3642, 39 CFR part 3035, and 39 CFR part 3040, subpart B. Comment deadline(s) for each request appear in section II.

#### II. Docketed Proceeding(s)

1. *Docket No(s):* CP2020-83; *Filing Title:* USPS Notice of Amendment to Parcel Select Contract 37, Filed Under Seal; *Filing Acceptance Date:* June 2, 2021; *Filing Authority:* 39 CFR 3035.105; *Public Representative:* Kenneth R. Moeller; *Comments Due:* June 10, 2021.

2. *Docket No(s):* MC2021-95 and CP2021-98; *Filing Title:* USPS Request to Add Priority Mail Contract 703 to Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* June 2, 2021; *Filing Authority:* 39 CFR 3035.105; *Public Representative:* Kenneth R. Moeller; *Comments Due:* June 10, 2021.

3. *Docket No(s):* MC2021-96 and CP2021-99; *Filing Title:* USPS Request to Add Priority Mail Contract 704 to Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* June 2, 2021; *Filing Authority:* 39 CFR 3035.105; *Public Representative:* Kenneth R. Moeller; *Comments Due:* June 10, 2021.

4. *Docket No(s):* MC2021-97 and CP2021-100; *Filing Title:* USPS Request to Add Priority Mail & First-Class Package Service Contract 194 to Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* June 2, 2021; *Filing Authority:* 39 CFR 3035.105; *Public Representative:* Kenneth R. Moeller; *Comments Due:* June 10, 2021.

<sup>1</sup> See Docket No. RM2018-3, Order Adopting Final Rules Relating to Non-Public Information, June 27, 2018, Attachment A at 19-22 (Order No. 4679).

This Notice will be published in the **Federal Register**.

Erica A. Barker,  
Secretary.

[FR Doc. 2021-11984 Filed 6-7-21; 8:45 am]

BILLING CODE 7710-FW-P

## SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 34293; 812-15202-01]

### Listed Funds Trust and Skyrocket Investments, LLC

June 2, 2021.

**AGENCY:** Securities and Exchange Commission ("Commission").

**ACTION:** Notice.

Notice of an application under Section 6(c) of the Investment Company Act of 1940 ("Act") for an exemption from Section 15(a) of the Act, as well as from certain disclosure requirements in Rule 20a-1 under the Act, Item 19(a)(3) of Form N-1A, Items 22(c)(1)(ii), 22(c)(1)(iii), 22(c)(8) and 22(c)(9) of Schedule 14A under the Securities Exchange Act of 1934 ("1934 Act"), and Sections 6-07(2)(a), (b), and (c) of Regulation S-X ("Disclosure Requirements").

**APPLICANTS:** Listed Funds Trust ("Trust"), a Delaware statutory trust registered under the Act as an open-end management investment company with multiple series (each a "Fund") and Skyrocket Investments, LLC ("Initial Adviser"), a Delaware limited liability company registered as an investment adviser under the Investment Advisers Act of 1940 ("Advisers Act") that serves as an investment adviser to the Funds (collectively with the Trust, the "Applicants").

**SUMMARY OF APPLICATION:** The requested exemption would permit Applicants to enter into and materially amend sub-advisory agreements with sub-advisers without shareholder approval and would grant relief from the Disclosure Requirements as they relate to fees paid to the sub-advisers.

**DATES:** The application was filed on February 17, 2021 and amended on May 14, 2021.

**HEARING OR NOTIFICATION OF HEARING:** An order granting the requested relief will be issued unless the Commission orders a hearing. Interested persons may request a hearing by emailing the Commission's Secretary at *Secretarys-Office@sec.gov* and serving Applicants with a copy of the request by email. Hearing requests should be received by

the Commission by 5:30 p.m. on June 28, 2021, and should be accompanied by proof of service on the Applicants, in the form of an affidavit, or, for lawyers, a certificate of service. Pursuant to Rule 0-5 under the Act, hearing requests should state the nature of the writer's interest, any facts bearing upon the desirability of a hearing on the matter, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by emailing the Commission's Secretary.

**ADDRESSES:** The Commission: *Secretarys-Office@sec.gov*. Applicants: Kent P. Barnes, Listed Funds Trust, by email: *kent.barnes@usbank.com*.

**FOR FURTHER INFORMATION CONTACT:** Christine Y. Greenlees, Senior Counsel, at (202) 551-6879, or Lisa Reid Ragen, Branch Chief, at (202) 551-6825 (Division of Investment Management, Chief Counsel's Office).

**SUPPLEMENTARY INFORMATION:** The following is a summary of the application. The complete application may be obtained via the Commission's website by searching for the file number or an Applicant using the "Company" name box, at <http://www.sec.gov/search/search.htm> or by calling (202) 551-8090.

### I. Requested Exemptive Relief

1. Applicants request an order to permit the Adviser,<sup>1</sup> subject to the approval of the board of trustees of the Trust (collectively, the "Board"),<sup>2</sup> including a majority of the trustees who are not "interested persons" of the Trust or the Adviser, as defined in Section 2(a)(19) of the Act (the "Independent Trustees"), without obtaining shareholder approval, to: (i) Select investment sub-advisers ("Sub-Advisers") for all or a portion of the assets of one or more of the Funds pursuant to an investment sub-advisory agreement with each Sub-Adviser (each a "Sub-Advisory Agreement"); and (ii) materially amend Sub-Advisory Agreements with the Sub-Advisers.

<sup>1</sup> The term "Adviser" means (i) the Initial Adviser, (ii) its successors, and (iii) any entity controlling, controlled by or under common control with, the Initial Adviser or its successors that serves as the primary adviser to a Sub-Advised Fund. For the purposes of the requested order, "successor" is limited to an entity or entities that result from a reorganization into another jurisdiction or a change in the type of business organization. Any other Adviser also will be registered with the Commission as an investment adviser under the Advisers Act.

<sup>2</sup> The term "Board" also includes the board of trustees or directors of a future Sub-Advised Fund (as defined below), if different from the board of trustees ("Trustees") of the Trust.

2. Applicants also request an order exempting the Sub-Advised Funds (as defined below) from the Disclosure Requirements, which require each Fund to disclose fees paid to a Sub-Adviser. Applicants seek relief to permit each Sub-Advised Fund to disclose (as a dollar amount and a percentage of the Fund's net assets): (i) The aggregate fees paid to the Adviser and any Wholly-Owned Sub-Advisers; and (ii) the aggregate fees paid to Affiliated and Non-Affiliated Sub-Advisers ("Aggregate Fee Disclosure").<sup>3</sup> Applicants seek an exemption to permit a Sub-Advised Fund to include only the Aggregate Fee Disclosure.<sup>4</sup>

3. Applicants request that the relief apply to Applicants, as well as to any future Fund and any other existing or future registered open-end management investment company or series thereof that intends to rely on the requested order in the future and that: (i) Is advised by the Adviser; (ii) uses the multi-manager structure described in the application; and (iii) complies with the terms and conditions of the application (each, a "Sub-Advised Fund").<sup>5</sup>

### II. Management of the Sub-Advised Funds

4. The Adviser serves or will serve as the investment adviser to each Sub-Advised Fund pursuant to an investment advisory agreement with the Fund (each an "Investment Advisory Agreement"). Each Investment Advisory Agreement has been or will be approved by the Board, including a majority of the Independent Trustees, and by the

<sup>3</sup> A "Wholly-Owned Sub-Adviser" is any investment adviser that is (1) an indirect or direct "wholly-owned subsidiary" (as such term is defined in Section 2(a)(43) of the Act) of the Adviser, (2) a "sister company" of the Adviser that is an indirect or direct "wholly-owned subsidiary" of the same company that indirectly or directly wholly owns the Adviser (the Adviser's "parent company"), or (3) a parent company of the Adviser. An "Affiliated Sub-Adviser" is any investment sub-adviser that is not a Wholly-Owned Sub-Adviser, but is an "affiliated person" (as defined in Section 2(a)(3) of the Act) of a Sub-Advised Fund or the Adviser for reasons other than serving as investment sub-adviser to one or more Funds. A "Non-Affiliated Sub-Adviser" is any investment adviser that is not an "affiliated person" (as defined in the Act) of a Fund or the Adviser, except to the extent that an affiliation arises solely because the Sub-Adviser serves as a sub-adviser to one or more Funds.

<sup>4</sup> Applicants note that all other items required by Sections 6-07(2)(a), (b) and (c) of Regulation S-X will be disclosed.

<sup>5</sup> All registered open-end investment companies that currently intend to rely on the requested order are named as Applicants. All Funds that currently are, or that currently intend to be, Sub-Advised Funds are identified in this application. Any entity that relies on the requested order will do so only in accordance with the terms and conditions contained in the application.

shareholders of the relevant Sub-Advised Fund in the manner required by Sections 15(a) and 15(c) of the Act. The terms of these Investment Advisory Agreements comply or will comply with Section 15(a) of the Act. Applicants are not seeking an exemption from the Act with respect to the Investment Advisory Agreements. Pursuant to the terms of each Investment Advisory Agreement, the Adviser, subject to the oversight of the Board, will provide continuous investment management for each Sub-Advised Fund. For its services to each Sub-Advised Fund, the Adviser receives or will receive an investment advisory fee from that Fund as specified in the applicable Investment Advisory Agreement.

5. Consistent with the terms of each Investment Advisory Agreement, the Adviser may, subject to the approval of the Board, including a majority of the Independent Trustees, and the shareholders of the applicable Sub-Advised Fund (if required by applicable law), delegate portfolio management responsibilities of all or a portion of the assets of a Sub-Advised Fund to a Sub-Adviser. The Adviser will retain overall responsibility for the management and investment of the assets of each Sub-Advised Fund. This responsibility includes recommending the removal or replacement of Sub-Advisers, allocating the portion of that Sub-Advised Fund's assets to any given Sub-Adviser and reallocating those assets as necessary from time to time.<sup>6</sup> The Sub-Advisers will be "investment advisers" to the Sub-Advised Funds within the meaning of Section 2(a)(20) of the Act and will provide investment management services to the Funds subject to, without limitation, the requirements of Sections 15(c) and 36(b) of the Act.<sup>7</sup> The Sub-Advisers, subject to the oversight of the Adviser and the Board, will determine the securities and other investments to be purchased, sold or entered into by a Sub-Advised Fund's portfolio or a portion thereof, and will place orders with brokers or dealers that they select.<sup>8</sup>

<sup>6</sup> Applicants represent that if the name of any Sub-Advised Fund contains the name of a sub-adviser, the name of the Adviser that serves as the primary adviser to the Fund, or a trademark or trade name that is owned by or publicly used to identify the Adviser, will precede the name of the sub-adviser.

<sup>7</sup> The Sub-Advisers will be registered with the Commission as an investment adviser under the Advisers Act or not subject to such registration.

<sup>8</sup> A "Sub-Adviser" also includes an investment sub-adviser that will provide the Adviser with a model portfolio reflecting a specific strategy, style or focus with respect to the investment of all or a portion of a Sub-Advised Fund's assets. The Adviser may use the model portfolio to determine the securities and other instruments to be purchased, sold or entered into by a Sub-Advised

6. The Sub-Advisory Agreements will be approved by the Board, including a majority of the Independent Trustees, in accordance with Sections 15(a) and 15(c) of the Act. In addition, the terms of each Sub-Advisory Agreement will comply fully with the requirements of Section 15(a) of the Act. The Adviser may compensate the Sub-Advisers or the Sub-Advised Funds may pay advisory fees to the Sub-Advisers directly.

7. Sub-Advised Funds will inform shareholders of the hiring of a new Sub-Adviser pursuant to the following procedures ("Modified Notice and Access Procedures"): (a) Within 90 days after a new Sub-Adviser is hired for any Sub-Advised Fund, that Fund will send its shareholders either a Multi-Manager Notice or a Multi-Manager Notice and Multi-Manager Information Statement;<sup>9</sup> and (b) the Sub-Advised Fund will make the Multi-Manager Information Statement available on the website identified in the Multi-Manager Notice no later than when the Multi-Manager Notice (or Multi-Manager Notice and Multi-Manager Information Statement) is first sent to shareholders, and will maintain it on that website for at least 90 days.<sup>10</sup>

### III. Applicable Law

8. Section 15(a) of the Act states, in part, that it is unlawful for any person to act as an investment adviser to a registered investment company "except pursuant to a written contract, which contract, whether with such registered

Fund's portfolio or a portion thereof, and place orders with brokers or dealers that it selects.

<sup>9</sup> A "Multi-Manager Notice" will be modeled on a Notice of internet Availability as defined in Rule 14a-16 under the 1934 Act, and specifically will, among other things: (a) Summarize the relevant information regarding the new Sub-Adviser (except as modified to permit Aggregate Fee Disclosure); (b) inform shareholders that the Multi-Manager Information Statement is available on a website; (c) provide the website address; (d) state the time period during which the Multi-Manager Information Statement will remain available on that website; (e) provide instructions for accessing and printing the Multi-Manager Information Statement; and (f) instruct the shareholder that a paper or email copy of the Multi-Manager Information Statement may be obtained, without charge, by contacting the Sub-Advised Fund. A "Multi-Manager Information Statement" will meet the requirements of Regulation 14C, Schedule 14C and Item 22 of Schedule 14A under the 1934 Act for an information statement, except as modified by the requested order to permit Aggregate Fee Disclosure. Multi-Manager Information Statements will be filed with the Commission via the EDGAR system.

<sup>10</sup> In addition, Applicants represent that whenever a new Sub-Adviser is retained, an existing Sub-Adviser is terminated, or a Sub-Advisory Agreement is materially amended, the Sub-Advised Fund's prospectus and statement of additional information will be supplemented promptly pursuant to Rule 497(e) under the Securities Act of 1933.

company or with an investment adviser of such registered company, has been approved by the vote of a majority of the outstanding voting securities of such registered company."

9. Form N-1A is the registration statement used by open-end investment companies. Item 19(a)(3) of Form N-1A requires a registered investment company to disclose in its statement of additional information the method of computing the "advisory fee payable" by the investment company with respect to each investment adviser, including the total dollar amounts that the investment company "paid to the adviser (aggregated with amounts paid to affiliated advisers, if any), and any advisers who are not affiliated persons of the adviser, under the investment advisory contract for the last three fiscal years."

10. Rule 20a-1 under the Act requires proxies solicited with respect to a registered investment company to comply with Schedule 14A under the 1934 Act. Items 22(c)(1)(ii), 22(c)(1)(iii), 22(c)(8) and 22(c)(9) of Schedule 14A, taken together, require a proxy statement for a shareholder meeting at which the advisory contract will be voted upon to include the "rate of compensation of the investment adviser," the "aggregate amount of the investment adviser's fee," a description of the "terms of the contract to be acted upon," and, if a change in the advisory fee is proposed, the existing and proposed fees and the difference between the two fees.

11. Regulation S-X sets forth the requirements for financial statements required to be included as part of a registered investment company's registration statement and shareholder reports filed with the Commission. Sections 6-07(2)(a), (b), and (c) of Regulation S-X require a registered investment company to include in its financial statements information about investment advisory fees.

12. Section 6(c) of the Act provides that the Commission may exempt any person, security, or transaction or any class or classes of persons, securities, or transactions from any provisions of the Act, or any rule thereunder, if such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Applicants state that the requested relief meets this standard for the reasons discussed below.

#### IV. Arguments in Support of the Requested Relief

13. Applicants assert that, from the perspective of the shareholder, the role of the Sub-Advisers is substantially equivalent to the limited role of the individual portfolio managers employed by an investment adviser to a traditional investment company. Applicants also assert that the shareholders expect the Adviser, subject to review and approval of the Board, to select a Sub-Adviser who is in the best position to achieve the Sub-Advised Fund's investment objective. Applicants believe that permitting the Adviser to perform the duties for which the shareholders of the Sub-Advised Fund are paying the Adviser—the selection, oversight and evaluation of the Sub-Adviser—without incurring unnecessary delays or expenses of convening special meetings of shareholders is appropriate and in the interest of the Fund's shareholders, and will allow such Fund to operate more efficiently. Applicants state that each Investment Advisory Agreement will continue to be fully subject to Section 15(a) of the Act and approved by the relevant Board, including a majority of the Independent Trustees, in the manner required by Section 15(a) and 15(c) of the Act.

14. Applicants submit that the requested relief meets the standards for relief under Section 6(c) of the Act. Applicants state that the operation of the Sub-Advised Fund in the manner described in the application must be approved by shareholders of that Fund before it may rely on the requested relief. Applicants also state that the proposed conditions to the requested relief are designed to address any potential conflicts of interest or economic incentives, and provide that shareholders are informed when new Sub-Advisers are hired.

15. Applicants contend that, in the circumstances described in the application, a proxy solicitation to approve the appointment of new Sub-Advisers provides no more meaningful information to shareholders than the proposed Multi-Manager Information Statement. Applicants state that, accordingly, they believe the requested relief is necessary or appropriate in the public interest, and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

16. With respect to the relief permitting Aggregate Fee Disclosure, Applicants assert that disclosure of the individual fees paid to the Sub-Advisers does not serve any meaningful purpose. Applicants contend that the primary

reasons for requiring disclosure of individual fees paid to Sub-Advisers are to inform shareholders of expenses to be charged by a particular Sub-Advised Fund and to enable shareholders to compare the fees to those of other comparable investment companies. Applicants believe that the requested relief satisfies these objectives because the Sub-Advised Fund's overall advisory fee will be fully disclosed and, therefore, shareholders will know what the Sub-Advised Fund's fees and expenses are and will be able to compare the advisory fees a Sub-Advised Fund is charged to those of other investment companies. In addition, Applicants assert that the requested relief would benefit shareholders of the Sub-Advised Fund because it would improve the Adviser's ability to negotiate the fees paid to Sub-Advisers. In particular, Applicants state that if the Adviser is not required to disclose the Sub-Advisers' fees to the public, the Adviser may be able to negotiate rates that are below a Sub-Adviser's "posted" amounts as the rate would not be disclosed to the Sub-Adviser's other clients. Applicants assert that the relief will also encourage Sub-Advisers to negotiate lower sub-advisory fees with the Adviser if the lower fees are not required to be made public.

#### V. Relief for Affiliated Sub-Advisers

17. The Commission has granted the requested relief with respect to Wholly-Owned and Non-Affiliated Sub-Advisers through numerous exemptive orders. The Commission also has extended the requested relief to Affiliated Sub-Advisers.<sup>11</sup> Applicants state that although the Adviser's judgment in recommending a Sub-Adviser can be affected by certain conflicts, they do not warrant denying the extension of the requested relief to Affiliated Sub-Advisers. Specifically, the Adviser faces those conflicts in allocating fund assets between itself and a Sub-Adviser, and across Sub-Advisers, as it has an interest in considering the benefit it will receive, directly or indirectly, from the fee the Sub-Advised Fund pays for the management of those assets. Applicants also state that to the extent the Adviser has a conflict of interest with respect to the selection of an Affiliated Sub-Adviser, the proposed conditions are protective of shareholder interests by ensuring the Board's independence and providing the Board with the appropriate resources and

information to monitor and address conflicts.

18. With respect to the relief permitting Aggregate Fee Disclosure, Applicants assert that it is appropriate to disclose only aggregate fees paid to Affiliated Sub-Advisers for the same reasons that similar relief has been granted previously with respect to Wholly-Owned and Non-Affiliated Sub-Advisers.

#### VI. Applicants' Conditions

Applicants agree that any order granting the requested relief will be subject to the following conditions:

1. Before a Sub-Advised Fund may rely on the order requested in the application, the operation of the Sub-Advised Fund in the manner described in the application will be, or has been, approved by a majority of the Sub-Advised Fund's outstanding voting securities as defined in the Act, or, in the case of a Sub-Advised Fund whose public shareholders purchase shares on the basis of a prospectus containing the disclosure contemplated by condition 2 below, by the initial shareholder before such Sub-Advised Fund's shares are offered to the public.

2. The prospectus for each Sub-Advised Fund will disclose the existence, substance and effect of any order granted pursuant to the application. In addition, each Sub-Advised Fund will hold itself out to the public as employing the multi-manager structure described in the application. The prospectus will prominently disclose that the Adviser has the ultimate responsibility, subject to oversight by the Board, to oversee the Sub-Advisers and recommend their hiring, termination, and replacement.

3. The Adviser will provide general management services to each Sub-Advised Fund, including overall supervisory responsibility for the general management and investment of the Sub-Advised Fund's assets, and subject to review and oversight of the Board, will (i) set the Sub-Advised Fund's overall investment strategies, (ii) evaluate, select, and recommend Sub-Advisers for all or a portion of the Sub-Advised Fund's assets, (iii) allocate and, when appropriate, reallocate the Sub-Advised Fund's assets among Sub-Advisers, (iv) monitor and evaluate the Sub-Advisers' performance, and (v) implement procedures reasonably designed to ensure that Sub-Advisers comply with the Sub-Advised Fund's investment objective, policies and restrictions.

4. Sub-Advised Funds will inform shareholders of the hiring of a new Sub-Adviser within 90 days after the hiring

<sup>11</sup> *Carillon Series Trust, et al.*, Investment Co. Act Rel. Nos. 33464 (May 2, 2019) (notice) and 33494 (May 29, 2019) (order).

of the new Sub-Adviser pursuant to the Modified Notice and Access Procedures.

5. At all times, at least a majority of the Board will be Independent Trustees, and the selection and nomination of new or additional Independent Trustees will be placed within the discretion of the then-existing Independent Trustees.

6. Independent Legal Counsel, as defined in Rule 0–1(a)(6) under the Act, will be engaged to represent the Independent Trustees. The selection of such counsel will be within the discretion of the then-existing Independent Trustees.

7. Whenever a Sub-Adviser is hired or terminated, the Adviser will provide the Board with information showing the expected impact on the profitability of the Adviser.

8. The Board must evaluate any material conflicts that may be present in a sub-advisory arrangement. Specifically, whenever a sub-adviser change is proposed for a Sub-Advised Fund (“Sub-Adviser Change”) or the Board considers an existing Sub-Advisory Agreement as part of its annual review process (“Sub-Adviser Review”):

(a) The Adviser will provide the Board, to the extent not already being provided pursuant to Section 15(c) of the Act, with all relevant information concerning:

(i) Any material interest in the proposed new Sub-Adviser, in the case of a Sub-Adviser Change, or the Sub-Adviser in the case of a Sub-Adviser Review, held directly or indirectly by the Adviser or a parent or sister company of the Adviser, and any material impact the proposed Sub-Advisory Agreement may have on that interest;

(ii) any arrangement or understanding in which the Adviser or any parent or sister company of the Adviser is a participant that (A) may have had a material effect on the proposed Sub-Adviser Change or Sub-Adviser Review, or (B) may be materially affected by the proposed Sub-Adviser Change or Sub-Adviser Review;

(iii) any material interest in a Sub-Adviser held directly or indirectly by an officer or Trustee of the Sub-Advised Fund, or an officer or board member of the Adviser (other than through a pooled investment vehicle not controlled by such person); and

(iv) any other information that may be relevant to the Board in evaluating any potential material conflicts of interest in the proposed Sub-Adviser Change or Sub-Adviser Review.

(b) the Board, including a majority of the Independent Trustees, will make a separate finding, reflected in the Board

minutes, that the Sub-Adviser Change or continuation after Sub-Adviser Review is in the best interests of the Sub-Advised Fund and its shareholders and, based on the information provided to the Board, does not involve a conflict of interest from which the Adviser, a Sub-Adviser, any officer or Trustee of the Sub-Advised Fund, or any officer or board member of the Adviser derives an inappropriate advantage.

9. Each Sub-Advised Fund will disclose in its registration statement the Aggregate Fee Disclosure.

10. In the event that the Commission adopts a rule under the Act providing substantially similar relief to that in the order requested in the application, the requested order will expire on the effective date of that rule.

11. Any new Sub-Advisory Agreement or any amendment to an existing Investment Advisory Agreement or Sub-Advisory Agreement that directly or indirectly results in an increase in the aggregate advisory fee rate payable by the Sub-Advised Fund will be submitted to the Sub-Advised Fund’s shareholders for approval.

For the Commission, by the Division of Investment Management, under delegated authority.

**J. Matthew DeLesDernier,**

*Assistant Secretary.*

[FR Doc. 2021–11917 Filed 6–7–21; 8:45 am]

**BILLING CODE 8011–01–P**

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–92090; File No. SR–MIAX–2021–22]

### Self-Regulatory Organizations; Miami International Securities Exchange, LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Delay Implementation of an Amendment to Rule 518, Complex Orders, To Permit Legging Through the Simple Market

June 2, 2021.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”),<sup>1</sup> and Rule 19b–4 thereunder,<sup>2</sup> notice is hereby given that on May 21, 2021, Miami International Securities Exchange, LLC (“MIAX Options” or the “Exchange”) filed with the Securities and Exchange Commission (“Commission”) the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Exchange filed the proposed rule change

pursuant to Section 19(b)(3)(A)(iii) of the Act<sup>3</sup> and Rule 19b–4(f)(6) thereunder.<sup>4</sup> The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

#### I. Self-Regulatory Organization’s Statement of the Terms of Substance of the Proposed Rule Change

The Exchange is filing a proposal to delay implementation of the change to allow a component of a complex order<sup>5</sup> that legs into the Simple Order Book<sup>6</sup> to execute at a price that is outside the NBBO.<sup>7</sup>

The text of the proposed rule change is available on the Exchange’s website at <http://www.miaxoptions.com/rule-filings/> at MIAX Options’ principal office, and at the Commission’s Public Reference Room.

#### II. Self-Regulatory Organization’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

<sup>3</sup> 15 U.S.C. 78s(b)(3)(A)(iii).

<sup>4</sup> 17 CFR 240.19b–4(f)(6).

<sup>5</sup> A “complex order” is any order involving the concurrent purchase and/or sale of two or more different options in the same underlying security (the “legs” or “components” of the complex order), for the same account, in a ratio that is equal to or greater than one-to-three (.333) and less than or equal to three-to-one (3.00) and for the purposes of executing a particular investment strategy. Mini-options may only be part of a complex order that includes other mini-options. Only those complex orders in the classes designated by the Exchange and communicated to Members via Regulatory Circular with no more than the applicable number of legs, as determined by the Exchange on a class-by-class basis and communicated to Members via Regulatory Circular, are eligible for processing. See Exchange Rule 518(a)(5).

<sup>6</sup> The “Simple Order Book” is the Exchange’s regular electronic book of orders and quotes. See Exchange Rule 518(a)(15).

<sup>7</sup> The term “NBBO” means the national best bid or offer as calculated by the Exchange based on market information received by the Exchange from the appropriate Securities Information Processor (“SIP”). See Exchange Rule 518(a)(14).

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b–4.

*A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change*

1. Purpose

On October 22, 2019, the Exchange filed a proposed rule change to amend subsection (c)(2)(iii) of Exchange Rule 518, Complex Orders, to remove the provision which provides that a component of a complex order that legs into the Simple Order Book may not execute at a price that is outside the NBBO.<sup>8</sup> The proposed rule change indicated that the Exchange would announce the implementation date of the proposed rule change by Regulatory Circular to be published no later than 90 days following the operative date of the proposed rule. The implementation date will be no later than 90 days following the issuance of the Regulatory Circular. The Exchange delayed the implementation of this functionality until the second quarter of 2021.<sup>9</sup> The Exchange now proposes to delay the implementation of this functionality until the second quarter of 2022.

The Exchange proposes this delay in order to allow the Exchange to complete its reprioritization of its software delivery and release schedule as a result of a shift in priorities due to the impact the coronavirus pandemic has had on Exchange operations. The Exchange will issue a Regulatory Circular notifying market participants at least 45 days prior to implementing this functionality.

2. Statutory Basis

The Exchange believes that its proposed rule change is consistent with Section 6(b) of the Act<sup>10</sup> in general, and furthers the objectives of Section 6(b)(5) of the Act<sup>11</sup> in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in, securities, to remove impediments to and perfect the mechanisms of a free and open market and a national market system and, in general, to protect investors and the public interest by allowing the

Exchange additional time to plan and implement the proposed functionality.

*B. Self-Regulatory Organization's Statement on Burden on Competition*

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange's proposal to delay the implementation of the proposed functionality does not impose an undue burden on competition. Delaying the implementation will simply allow the Exchange additional time to properly plan and implement the proposed functionality.

The Exchange does not believe that the proposed rule change will impose any burden on intramarket competition as the delay will apply equally to all Members of the Exchange.

The Exchange does not believe that the proposed rule change will impose any burden on intermarket competition as the proposal is to delay the implementation of approved functionality which affects MIA X Members only and does not impact intermarket competition.

*C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others*

Written comments were neither solicited nor received.

**III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action**

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act<sup>12</sup> and Rule 19b-4(f)(6) thereunder.<sup>13</sup> Because the proposed rule change does not: (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative prior to 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b-4(f)(6)(iii) thereunder.

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the

public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings under Section 19(b)(2)(B)<sup>14</sup> of the Act to determine whether the proposed rule change should be approved or disapproved.

**IV. Solicitation of Comments**

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

*Electronic Comments*

- Use the Commission's internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an email to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-MIA X-2021-22 on the subject line.

*Paper Comments*

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549-1090.

All submissions should refer to File Number SR-MIA X-2021-22. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street, NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should

<sup>8</sup> See Securities Exchange Release No. 87440 (November 1, 2019), 84 FR 60117 (November 7, 2019) (SR-MIA X-2019-45).

<sup>9</sup> See Securities Exchange Release No. 90507 (November 24, 2020), 85 FR 77321 (December 1, 2020) (SR-MIA X-2020-36).

<sup>10</sup> 15 U.S.C. 78f(b).

<sup>11</sup> 15 U.S.C. 78f(b)(5).

<sup>12</sup> 15 U.S.C. 78s(b)(3)(A)(iii).

<sup>13</sup> 17 CFR 240.19b-4(f)(6).

<sup>14</sup> 15 U.S.C. 78s(b)(2)(B).

submit only information that you wish to make available publicly. All submissions should refer to File Number SR-MIAX-2021-22, and should be submitted on or before June 29, 2021.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>15</sup>

**J. Matthew DeLesDernier,**  
Assistant Secretary.

[FR Doc. 2021-11912 Filed 6-7-21; 8:45 am]  
BILLING CODE 8011-01-P

**SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34-92089; File Nos. SR-NYSE-2021-25, SR-NYSEAMER-2021-21, SR-NYSEArca-2021-24, SR-NYSECHX-2021-07, SR-NYSESTAT-2021-09]

**Self-Regulatory Organizations; New York Stock Exchange LLC, NYSE American LLC, NYSE Arca, Inc., NYSE Chicago, Inc., and NYSE National, Inc.; Notice of Designation of a Longer Period for Commission Action on Proposed Rule Changes To Amend the Fee Schedule To Add Meet-Me-Room Connectivity Services Available at the Mahwah Data Center**

June 2, 2021.

On April 9, 2021, New York Stock Exchange LLC, NYSE American LLC, NYSE Arca, Inc., NYSE Chicago, Inc., and NYSE National, Inc. each filed with the Securities and Exchange Commission (“Commission”), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”) <sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> a proposed rule change to amend the schedule of connectivity services available at the Mahwah data center to add services available to customers in the meet me rooms in the Mahwah data center and procedures for the allocation of cabinets and power to such customers. The proposed rule changes were published for comment in the **Federal Register** on April 22, 2021.<sup>3</sup> The Commission has

<sup>15</sup> 17 CFR 200.30-3(a)(12).  
<sup>1</sup> 15 U.S.C. 78s(b)(1).  
<sup>2</sup> 17 CFR 240.19b-4.  
<sup>3</sup> See Securities Exchange Act Release Nos. 91598 (April 16, 2021), 86 FR 21373 (April 22, 2021) (SR-NYSE-2021-25); 91599 (April 16, 2021), 86 FR 21365 (April 22, 2021) (SR-NYSEAMER-2021-21); 91600 (April 16, 2021), 86 FR 21384 (April 22, 2021) (SR-NYSEArca-2021-24); 91601 (April 16, 2021), 86 FR 21410 (April 22, 2021) (SR-NYSECHX-2021-07); and 91602 (April 16, 2021), 86 FR 21393 (April 22, 2021) (SR-NYSESTAT-2021-09) (collectively, the “Notices”).

received no comment letters on the proposed rule changes.

Section 19(b)(2) of the Act<sup>4</sup> provides that within 45 days of the publication of notice of the filing of a propose rule change, or within such longer period up to 90 days as the Commission may designate if it find such longer period to be appropriate and published its reasons for so finding or as to which the self-regulatory organization consents, the Commission shall either approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether the proposed rule change should be disapproved. The 45th day after publication of the Notices for these proposed rule changes is June 6, 2021. The Commission is extending this 45-day period.

The Commission finds that it is appropriate to designate a longer period within which to take action on the proposed rule changes so that it has sufficient time to consider the proposed rule changes. Accordingly, pursuant to Section 19(b)(2) of the Act,<sup>5</sup> the Commission designates July 21, 2021, as the date by which the Commission shall either approve or disapprove, or institute proceedings to determine whether to approve or disapprove, the proposed rule changes (File Nos. SR-NYSE-2021-25, SR-NYSEAMER-2021-21, SR-NYSEArca-2021-24, SR-NYSECHX-2021-07, SR-NYSESTAT-2021-09).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>6</sup>

**J. Matthew DeLesDernier,**  
Assistant Secretary.

[FR Doc. 2021-11911 Filed 6-7-21; 8:45 am]  
BILLING CODE 8011-01-P

**SMALL BUSINESS ADMINISTRATION**

[Disaster Declaration #16995 and #16996; Louisiana Disaster Number LA-00112]

**Presidential Declaration of a Major Disaster for the State of Louisiana**

**AGENCY:** U.S. Small Business Administration.

**ACTION:** Notice.

**SUMMARY:** This is a Notice of the Presidential declaration of a major disaster for the State of Louisiana (FEMA-4606-DR), dated 06/02/2021.

*Incident:* Severe Storms, Tornadoes, and Flooding.

<sup>4</sup> 15 U.S.C. 78s(b)(2).  
<sup>5</sup> 15 U.S.C. 78s(b)(2).  
<sup>6</sup> 17 CFR 200.30-3(a)(31).

*Incident Period:* 05/17/2021 through 05/21/2021.

**DATES:** Issued on 06/02/2021.

*Physical Loan Application Deadline Date:* 08/02/2021.

*Economic Injury (EIDL) Loan Application Deadline Date:* 03/02/2022.

**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 President’s major disaster declaration on 06/02/2021, 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 Parishes (Physical Damage and Economic Injury Loans):* Ascension, Calcasieu, East Baton Rouge, Iberville, Lafayette.

*Contiguous Parishes/Counties (Economic Injury Loans Only):* Louisiana: Acadia, Assumption, Beauregard, Cameron, East Feliciana, Iberia, Jefferson Davis, Livingston, Pointe Coupee, Saint Helena, Saint James, Saint Landry, Saint Martin, St John the Baptist, Vermilion, West Baton Rouge. Texas: Newton, Orange.

The Interest Rates are:

	Percent
<i>For Physical Damage:</i>	
Homeowners with Credit Available Elsewhere .....	3.250
Homeowners without Credit Available Elsewhere .....	1.625
Businesses with Credit Available Elsewhere .....	5.760
Businesses without Credit Available Elsewhere .....	2.880
Non-Profit Organizations with Credit Available Elsewhere .....	2.000
Non-Profit Organizations without Credit Available Elsewhere .....	2.000
<i>For Economic Injury:</i>	
Businesses & Small Agricultural Cooperatives without Credit Available Elsewhere .....	2.880
Non-Profit Organizations without Credit Available Elsewhere .....	2.000

The number assigned to this disaster for physical damage is 16995 B and for economic injury is 16996 O.



(Catalog of Federal Domestic Assistance Number 59008)

**James Rivera,**  
Associate Administrator for Disaster Assistance.

[FR Doc. 2021-11985 Filed 6-7-21; 8:45 am]

BILLING CODE 8026-03-P

**SOCIAL SECURITY ADMINISTRATION**

[Docket No: SSA-2021-0021]

**Agency Information Collection Activities: Comment Request**

The Social Security Administration (SSA) publishes a list of information collection packages requiring clearance by the Office of Management and Budget (OMB) in compliance with Public Law 104-13, the Paperwork Reduction Act of 1995, effective October 1, 1995. This notice includes one revision of an OMB-approved information collection.

SSA is soliciting comments on the accuracy of the agency's burden estimate; the need for the information; its practical utility; ways to enhance its quality, utility, and clarity; and ways to

minimize burden on respondents, including the use of automated collection techniques or other forms of information technology. Mail, email, or fax your comments and recommendations on the information collection(s) to the OMB Desk Officer and SSA Reports Clearance Officer at the following addresses or fax numbers. (OMB), Office of Management and Budget, Attn: Desk Officer for SSA, Comments: <https://www.reginfo.gov/public/do/PRAMain>. Submit your comments online referencing Docket ID Number [SSA-2021-0021]. (SSA), Social Security Administration, OLCA, Attn: Reports Clearance Director, 3100 West High Rise, 6401 Security Blvd., Baltimore, MD 21235, Fax: 410-966-2830, Email address: [OR.Reports.Clearance@ssa.gov](mailto:OR.Reports.Clearance@ssa.gov).

Or you may submit your comments online through <https://www.reginfo.gov/public/do/PRAMain>, referencing Docket ID Number [SSA-2021-0021].

SSA submitted the information collection below to OMB for clearance. Your comments regarding this information collection would be most useful if OMB and SSA receive them 30

days from the date of this publication. To be sure we consider your comments, we must receive them no later than July 8, 2021. Individuals can obtain copies of this OMB clearance package by writing to [OR.Reports.Clearance@ssa.gov](mailto:OR.Reports.Clearance@ssa.gov).

Filing Claims Under the Federal Tort Claims Act—20 CFR 429.101–429.110—0960–0667. The Federal Tort Claims Act (FTCA) is the mechanism for compensating people who Federal employees injured through negligent or wrongful acts that occurred during the performance of those employees' official duties. SSA accepts claims filed under the FTCA for damages against the United States; loss of property; personal injury; or death resulting from an SSA employee's wrongful act or omission. The various types of claims included under this information collection request require claimants to provide information SSA can use to determine whether to make an award, compromise, or settlement under the FTCA. The respondents are individuals or entities making a claim under the FTCA.

*Type of Request:* Revision of an OMB-approved information collection.

Regulation citations	Number of respondents	Frequency of response	Average burden per response (minutes)	Estimated total annual burden (hours)	Average theoretical hourly cost amount (dollars)**	Total annual opportunity cost (dollars)***
429.102; 429.103*	1	1	1	0	** \$27.07	*** \$0
429.104(a)	11	1	5	1	** 27.07	*** 27
429.104(b)	43	1	5	4	** 27.07	*** 108
429.104(c)	1	1	5	0	** 27.07	*** 0
429.106(b)	8	1	10	1	** 27.07	*** 27
Totals	64			6		*** 162

\*We are including a one-hour placeholder burden for 20 CFR 429.102 and 429.103, as respondents complete OMB-approved Form SF-95, OMB No. 1105-0008. Since the burden for these citations is covered under a separate OMB number, we are not double-counting the burden here.

\*\* We based this figure on the average U.S. citizen's hourly salary, as reported by the U.S. Bureau of Labor Statistics ([https://www.bls.gov/oes/current/oes\\_nat.htm#00-0000](https://www.bls.gov/oes/current/oes_nat.htm#00-0000)).

\*\*\* This figure does not represent actual costs that SSA is imposing on recipients of Social Security payments to complete this application; rather, these are theoretical opportunity costs for the additional time respondents will spend to complete the application. *There is no actual charge to respondents to complete the application.*

Dated: June 2, 2021.

**Naomi Sipple,**  
Reports Clearance Officer, Social Security Administration.

[FR Doc. 2021-11896 Filed 6-7-21; 8:45 am]

BILLING CODE 4191-02-P

**DEPARTMENT OF STATE**

[Public Notice: 11441]

**Certification Pursuant to the Department of State, Foreign Operations, and Related Programs Appropriations Act, 2021**

Pursuant to section 7041(f)(2) of the Department of State, Foreign Operations, and Related Programs Appropriations Act, 2021 (Div. K, Pub. L. 116-260) (SFOAA) and Department of State Delegation of Authority 513, I hereby certify that all practicable steps have been taken to ensure that mechanisms are in place for monitoring,

oversight, and control of funds made available by the SFOAA for assistance for Libya.

This certification shall be published in the **Federal Register** and, along with the accompanying Memorandum of Justification, shall be reported to Congress.

Dated: June 1, 2021.

**Brian P. McKeon,**  
Deputy Secretary for Management and Resources.

[FR Doc. 2021-11969 Filed 6-7-21; 8:45 am]

BILLING CODE 4710-31-P



## DEPARTMENT OF STATE

[Public Notice: 11436]

**Notice of Determinations; Culturally Significant Objects Being Imported for Exhibition—Determinations: “Private Lives: Home and Family in the Art of the Nabis, Paris, 1889–1900” 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 “Private Lives: Home and Family in the Art of the Nabis, Paris, 1889–1900” at the Cleveland Museum of Art, Cleveland, Ohio, at the Portland Art Museum, Portland, Oregon, 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](mailto:section2459@state.gov)). The mailing address is U.S. Department of State, L/PD, SA–5, Suite 5H03, Washington, DC 20522–0505.

**SUPPLEMENTARY INFORMATION:** The foregoing determinations were made pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985; 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978, the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681, *et seq.*; 22 U.S.C. 6501 note, *et seq.*), Delegation of Authority No. 234 of October 1, 1999, and Delegation of Authority No. 236–3 of August 28, 2000.

**Matthew R. Lussenhop,**

*Acting Assistant Secretary, Bureau of Educational and Cultural Affairs, Department of State.*

[FR Doc. 2021–11899 Filed 6–7–21; 8:45 am]

BILLING CODE 4710–05–P

## DEPARTMENT OF STATE

[Public Notice: 11435]

**Notice of Determinations; Culturally Significant Objects Being Imported for Exhibition—Determinations: “Legacies of Exchange: Chinese Contemporary Art From the Yuz Foundation” Exhibition**

**SUMMARY:** Notice is hereby given of the following determinations: I hereby determine that certain objects being imported from abroad pursuant to an agreement with their foreign owner or custodian for temporary display in the exhibition “Legacies of Exchange: Chinese Contemporary Art from the Yuz Foundation” at the Los Angeles County Museum of Art, Los Angeles, California, 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](mailto:section2459@state.gov)). The mailing address is U.S. Department of State, L/PD, SA–5, Suite 5H03, Washington, DC 20522–0505.

**SUPPLEMENTARY INFORMATION:** The foregoing determinations were made pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985; 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978, the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681, *et seq.*; 22 U.S.C. 6501 note, *et seq.*), Delegation of Authority No. 234 of October 1, 1999, and Delegation of Authority No. 236–3 of August 28, 2000.

**Matthew R. Lussenhop,**

*Acting Assistant Secretary, Bureau of Educational and Cultural Affairs, Department of State.*

[FR Doc. 2021–11898 Filed 6–7–21; 8:45 am]

BILLING CODE 4710–05–P

## SURFACE TRANSPORTATION BOARD

[Docket No. FD 36520]

**Chicago, Rock Island & Pacific Railroad LLC—Continuance in Control Exemption—Gulf & Ship Island Railroad LLC**

Chicago Rock Island & Pacific Railroad LLC (CRIP), a Class III carrier,

has filed a verified notice of exemption under 49 CFR 1180.2(d)(2) to continue in control of Gulf & Ship Island Railroad LLC (GSIR), a noncarrier controlled by CRIP, upon GSIR’s becoming a carrier.

This transaction is related to a verified notice of exemption filed concurrently in *Gulf & Ship Island Railroad LLC—Lease & Operation Exemption—Rail Line of Harrison County Development Commission at or Near Gulfport, Harrison County, Miss.*, Docket No. FD 36519, in which GSIR seeks to lease from Harrison County Development Commission, acting with the Harrison County Board of Supervisors, and operate approximately 5 miles of industrial lead tracks known as the Seaway Lead, in Harrison County, Miss.

The transaction may be consummated on or after July 1, 2021, the effective date of the exemption (30 days after the verified notice was filed).<sup>1</sup>

According to the verified notice of exemption, CRIP currently owns and operates Mississippi Delta Railroad LLC (MSDR), a Class III rail carrier operating solely in the state of Mississippi.

CRIP represents that: (1) The rail line to be leased and operated by GSIR does not connect with the rail lines of any of the rail carriers controlled by CRIP; (2) the transaction is not part of a series of anticipated transactions that would connect GSIR with any railroad in the CRIP corporate family; and (3) the transaction does not involve a Class I rail carrier. The proposed transaction is therefore exempt from the prior approval requirements of 49 U.S.C. 11323 pursuant to 49 CFR 1180.2(d)(2).

Under 49 U.S.C. 10502(g), the Board may not use its exemption authority to relieve a rail carrier of its statutory obligation to protect the interests of its employees. However, 49 U.S.C. 11326(c) does not provide for labor protection for transactions under 49 U.S.C. 11324 and 11325 that involve only Class III rail carriers. Because this transaction involves Class III rail carriers only, the Board, under the statute, may not impose labor protective conditions for this transaction.

If the verified notice contains false or misleading information, the exemption is void ab initio. Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the effectiveness of the exemption. Petitions for stay must be filed no later than June 24, 2021 (at

<sup>1</sup> CRIP initially submitted its notice of exemption on May 17, 2021, but supplemented it by letter on June 1, 2021. The date of CRIP’s supplement will be considered the filing date for purposes of calculating the effective date of the exemption.

least seven days before the exemption becomes effective).

All pleadings, referring to Docket No. FD 36520, should be filed with the Surface Transportation Board via e-filing on the Board's website. In addition, one copy of each pleading must be served on CRIP's representative, Thomas F. McFarland, Thomas F. McFarland, P.C., 2230 Marston Lane, Flossmoor, IL 60422-1336.

According to CRIP, this action is categorically excluded from environmental review under 49 CFR 1105.6(c) and from historic reporting requirements under 49 CFR 1105.8(b).

Board decisions and notices are available at [www.stb.gov](http://www.stb.gov).

Decided: June 2, 2021.

By the Board, Scott M. Zimmerman, Acting Director, Office of Proceedings.

**Jeffrey Herzig,**

*Clearance Clerk.*

[FR Doc. 2021-11994 Filed 6-7-21; 8:45 am]

**BILLING CODE 4915-01-P**

## SURFACE TRANSPORTATION BOARD

### Release of Waybill Data

The Surface Transportation Board has received a request from Miami University (WB21-40-6/1/21) for permission to use data from the Board's 1983-2019 Unmasked Carload Waybill Samples. A copy of this request may be obtained from the Board's website under docket no. WB21-40.

The waybill sample contains confidential railroad and shipper data; therefore, if any parties object to these requests, they should file their objections with the Director of the Board's Office of Economics within 14 calendar days of the date of this notice. The rules for release of waybill data are codified at 49 CFR 1244.9.

*Contact:* Alexander Dusenberry, (202) 245-0319.

**Eden Besera,**

*Clearance Clerk.*

[FR Doc. 2021-12025 Filed 6-7-21; 8:45 am]

**BILLING CODE 4915-01-P**

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

[Docket No. FAA-2021-0493]

#### Agency Information Collection Activities: Requests for Comments; Clearance of a Renewed Approval of Information Collection: Part 121 Operating Requirements: Domestic, Flag, and Supplemental Operations

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

**ACTION:** Notice and request for comments.

**SUMMARY:** In accordance with the Paperwork Reduction Act of 1995, FAA invites public comments about our intention to request the Office of Management and Budget (OMB) approval to renew an information collection. The collection involves regulations that prescribe the requirements governing air carrier operations. The information collected is necessary to determine air operators' compliance with the minimum safety standards and the applicants' eligibility for air operations certification.

**DATES:** Written comments should be submitted by August 9, 2021.

**ADDRESSES:** Please send written comments:

*By Electronic Docket:* <https://www.regulations.gov> (Enter docket number into search field).

*By Mail:* Sandra Ray, Federal Aviation Administration, Policy Integration Branch AFS-270, 1187 Thorn Run Road, Suite 200, Coraopolis, PA 15108.

*By Fax:* 412-239-3063.

**FOR FURTHER INFORMATION CONTACT:** Sandra Ray by email at: [Sandra.ray@faa.gov](mailto:Sandra.ray@faa.gov); phone: 412-329-3088.

#### SUPPLEMENTARY INFORMATION:

*Public Comments Invited:* You are asked to comment on any aspect of this information collection, including (a) Whether the proposed collection of information is necessary for FAA's performance; (b) the accuracy of the estimated burden; (c) ways for FAA to enhance the quality, utility and clarity of the information collection; and (d) ways that the burden could be minimized without reducing the quality of the collected information. The agency will summarize and/or include your comments in the request for OMB's clearance of this information collection.

*OMB Control Number:* 2120-0008.

*Title:* Part 121 Operating Requirements: Domestic, Flag, and Supplemental Operations.

*Form Numbers:* None.

*Type of Review:* Renewal of an information collection.

*Background:* Under the authority of Title 49 CFR, Section 44701, Title 14 CFR prescribes the terms, conditions, and limitations as are necessary to ensure safety in air transportation. Title 14 CFR part 121 prescribes the requirements governing air carrier operations. The information collected is used to determine air operators' compliance with the minimum safety standards and the applicants' eligibility for air operations certification. Each operator which seeks to obtain, or is in possession of an air carrier operating certificate, must comply with the requirements of part 121 which include maintaining data which is used to determine if the air carrier is operating in accordance with minimum safety standards.

*Respondents:* 66 Part 121 Air Carriers.

*Frequency:* Information is collected on occasion.

*Estimated Average Burden per Response:* Varies per Response and Requirement type.

*Estimated Total Annual Burden:* 1,455,260 Hours.

Issued in Washington, DC, on June 3, 2021.

**Sandra L. Ray,**

*Aviation Safety Inspector, AFS-270.*

[FR Doc. 2021-11980 Filed 6-7-21; 8:45 am]

**BILLING CODE 4910-13-P**

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### Notice of Intent To Rule on a Land Release Request at Saratoga County Airport (5B2), Ballston Spa, NY

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Notice of request to release airport land.

**SUMMARY:** The FAA proposes to rule and invites public comment on the application for a release of approximately 1.79 acres of federally obligated airport property at Saratoga County Airport, Ballston Spa, Saratoga County, NY, from conditions, reservations, and restrictions contained in Airport Improvement Program (AIP) grants that would restrict the use of said land to aeronautical purposes. This acreage is composed of a portion of a parcel that was acquired by Saratoga County through AIP Grant 3-36-0004-05-1987. It is requested that FAA approval be given to release the 1.79 acres for disposal to allow a currently existing non-aeronautical use on the parcel to continue. The land is not

needed for aeronautical purposes and the Federal share of the proceeds from the sale of land would be dedicated to a future AIP eligible airport effort.

**DATES:** Comments must be received on or before July 8, 2021.

**ADDRESSES:** Comments on this application may be submitted to Robert Costa, Federal Aviation Administration, New York Airports District Office via phone at (718) 995-5778 or at the email address [Robert.Costa@faa.gov](mailto:Robert.Costa@faa.gov).

Comments on this application may also be mailed or delivered to the FAA at the following address: Evelyn Martinez, Manager, Federal Aviation Administration, New York Airports District Office, **Federal Register** Comment, 1 Aviation Plaza, Jamaica, New York 11434.

**FOR FURTHER INFORMATION CONTACT:** Mr. Robert Costa, Assistant Manager, Federal Aviation Administration, New York Airports District Office, 1 Aviation Plaza, Jamaica, New York 11434. Telephone: 718-995-5778.

**SUPPLEMENTARY INFORMATION:** In accordance with the Wendell H. Ford Aviation Investment and Reform Act for the 21st Century (AIR 21), Public Law 106-181 (Apr. 5, 2000; 114 Stat. 61), this notice must be published in the **Federal Register** 30 days before the Secretary may waive any condition imposed on a federally obligated airport by surplus property conveyance deeds or grant agreements. The following is a brief overview of the request.

The County of Saratoga has requested release from grant assurance obligations of approximately 1.79 acres of airport property at Saratoga County Airport to permit the disposal of the land at fair market value to allow an existing not-for-profit hospice facility to continue to operate on site. The airport has no plans to utilize the parcel for aviation use. The 1.79 acres sits on a larger 5.48-acre parcel currently owned by the airport. The 5.48-acre parcel will be split into two parcels; a 3.69-acre parcel that will be retained by the airport, as it includes a portion of the Runway 23 Runway Protection Zone, and the 1.79-acre parcel that is outside of the Runway Protection Zone and currently houses the not-for-profit hospice facility and associated parking area. As a condition of the release, the proposed use must not interfere with the airport or its operations. The Federal share of the proceeds of the disposal would be distributed towards approved AIP eligible efforts, with the remaining proceeds to be utilized to operate the airport. For these reasons, it is not anticipated that this acreage will be

needed for aeronautical purposes in the future.

Issued in Jamaica, New York, on June 2, 2021.

**Evelyn Martinez,**  
Manager, New York Airports District Office.  
[FR Doc. 2021-11900 Filed 6-7-21; 8:45 am]

**BILLING CODE 4910-13-P**

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

[Docket No. FAA-2020-0611]

#### Agency Information Collection Activities: Requests for Comments; Clearance of Renewed Approval of Information Collection: Voluntarily Implement a Safety Management System (SMS)

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

**ACTION:** Notice and request for comments.

**SUMMARY:** In accordance with the Paperwork Reduction Act of 1995, FAA invites public comments about our intention to request the Office of Management and Budget's (OMB) approval to renew an information collection. The information collection is for entities who voluntarily follow the guidance in FAA Advisory Circular (AC) 120-119, Voluntary Safety Management System for Other Regulated Entities Transporting Dangerous Goods by Air, on how to use the SMS principles included in part 5, as a basis to develop and implement a voluntary SMS program and how to submit such a voluntary program to the FAA's Office of Hazardous Materials Safety (AXH) for acceptance. Information received from the first collection will be used to determine compliance with FAA SMS regulations. With the exception of a one-time submission of an implementation plan, the data will not be submitted to the FAA. The records for Safety Policy, Safety Risk Management, and Safety Assurance processes, training, and communications are kept under Safety Promotion and will be kept by the organization and used in its SMS.

**DATES:** Written comments should be submitted by August 9, 2021.

**ADDRESSES:** Interested persons are invited to submit written comments on the proposed information collection to the Office of Information and Regulatory Affairs, Office of Management and Budget. Comments should be addressed to the attention of the Desk Officer,

Department of Transportation/FAA, and sent via electronic mail to [oira\\_submission@omb.eop.gov](mailto:oira_submission@omb.eop.gov), or faxed to (202) 395-6974, or mailed to the Office of Information and Regulatory Affairs, Office of Management and Budget, Docket Library, Room 10102, 725 17th Street NW, Washington, DC 20503.

**Public Comments Invited:** You are asked to comment on any aspect of this information collection, including (a) whether the proposed collection of information is necessary for FAA's performance; (b) the accuracy of the estimated burden; (c) ways for FAA to enhance the quality, utility and clarity of the information collection; and (d) ways that the burden could be minimized without reducing the quality of the collected information. The agency will summarize and/or include your comments in the request for OMB's clearance of this information collection.

**FOR FURTHER INFORMATION CONTACT:** Andrea Giordani, Security and Hazardous Materials Safety, Office of Hazardous Materials Safety (AXH-002), Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591; (202) 267-3770.

#### SUPPLEMENTARY INFORMATION:

**OMB Control Number:** To be determined.

**Title:** Voluntarily Implement a Safety Management System (SMS).

**Form Numbers:** N/A.

**Type of Review:** Clearance of a new information collection.

**Background:** Advisory Circular (AC) No. 120-119 provides information on how entities subject to the regulatory requirements of Title 49 of the Code of Federal Regulations (CFR) parts 171-180 (e.g., entities performing functions such as, but not limited to, handling or shipping of dangerous goods by air and hereinafter referred to as "other regulated entities") may choose to voluntarily implement a Safety Management System (SMS) as described in Title 14 CFR, part 5—Safety Management Systems.

This AC addresses general SMS principles and explains certain regulatory requirements outlined in 14 CFR part 5. While part 5 does not apply to voluntary SMS programs, it describes the general SMS framework and serves as a non-binding basis for the development and implementation of voluntary SMS programs. This AC provides guidance to organizations on how to use the SMS principles included in part 5, as a basis to develop and implement a voluntary SMS program and how to submit such a voluntary program to the FAA's Office of Hazardous Materials Safety (AXH) for acceptance.

The organization collects and analyzes safety data and maintains training and communications records for its SMS. Data and records are essential for an SMS. Any organization that volunteers for this process is required to maintain records of SMS outputs, training records, and communications materials used to promote safety. An organization may create a gap analysis to identify what already exists within that organization and what needs to be created to complete the SMS implementation plan. The organization's implementation plan is submitted once to FAA for approval. As needed, other information may be requested or submitted as part of ongoing SMS evaluation.

**Respondents:** The FAA estimates that a total of three companies will voluntarily implement an SMS.

**Frequency:** The FAA assumes that the implementation plan is a one-time burden that takes place over three (3) years for organizations that choose to comply.

**Estimated Average Burden per Response:** 6,680 hours reporting and 170 hours recordkeeping.

**Estimated Total Annual Burden:** 20,040 hours reporting and 6,120 hours recordkeeping.

Issued in Washington, DC, on June 3, 2021.

**Daniel Benjamin Supko,**

*Executive Director, FAA, Office of Hazardous Materials Safety.*

[FR Doc. 2021-11971 Filed 6-7-21; 8:45 am]

**BILLING CODE 4910-13-P**

## DEPARTMENT OF TRANSPORTATION

### Federal Highway Administration

[Docket No. FHWA-2021-0008]

#### Agency Information Collection

#### Activities: Request for Comments for a New Information Collection

**AGENCY:** Federal Highway Administration (FHWA), U.S. Department of Transportation (DOT).

**ACTION:** Notice of request for the renewal of a previously approved information collection and request for comments.

**SUMMARY:** The FHWA has forwarded the information collection request described in this notice to the Office of Management and Budget (OMB) for approval of a new (periodic) information collection. We published a **Federal Register** Notice with a 60-day public comment period on this information collection on May 11, 2021. We are required to publish this notice in the **Federal Register** by the Paperwork Reduction Act of 1995.

**DATES:** Please submit comments by July 8, 2021.

**ADDRESSES:** You may submit comments within 30 days identified by DOT Docket ID Number (FHWA-2021-0008) by any of the following methods:

**Website:** For access to the docket to read background documents or comments received, go to the Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the online instructions for submitting comments.

**Fax:** 1-202-493-2251.

**Mail:** Docket Management Facility; U.S. Department of Transportation, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue SE, Washington, DC 20590.

**Hand Delivery or Courier:** U.S. Department of Transportation, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue SE, Washington, DC 20590, between 9 a.m. and 5 p.m. ET, Monday through Friday, except Federal holidays.

#### FOR FURTHER INFORMATION CONTACT:

Susanna Hughes Reck, Office of Infrastructure, HISM-20, (202) 366-1548, Federal Highway Administration, 1200 New Jersey Avenue SE, Washington, DC 20590. Office hours are from 8:00 a.m. to 4:30 p.m. ET, Monday through Friday, except Federal holidays.

#### SUPPLEMENTARY INFORMATION:

**Title:** Biennial Performance Reporting for the TPM Program.

**Background:** The MAP-21 (Pub. L. 112-141) and FAST Act (Pub. L. 114-94) transformed the Federal-aid highway program by establishing new requirements for transportation performance management (TPM) to ensure the most efficient investment of Federal transportation funds. Prior to MAP-21, there were no explicit requirements for State DOTs to demonstrate how their transportation program supported national performance outcomes. State DOTs were not required to measure condition or performance, establish targets, assess progress toward targets, or report on condition or performance in a nationally consistent manner that FHWA could use to assess the entire system. It has been difficult for FHWA to examine the effectiveness of the Federal-aid highway program as a means to address surface transportation performance at a national level without States reporting on the above factors. The new TPM requirements, as established by MAP-21 and FAST Act, change this paradigm and require states to measure condition or performance, establish targets, assess progress towards targets and report on condition or performance.

State DOTs now must submit biennial performance reports (23 U.S.C. 150 (e) and 23 CFR 490.107). The information being requested in the TPM Biennial Reports has been provided to the DOT in an electronic format through an online data form called the Performance Management Form (PMF). State DOTs have successfully submitted the required biennial reports in October 2018 and 2020. Alternative formats will be made available where necessary. As part of the rulemaking<sup>1</sup> implementing the MAP-21 and FAST Act requirements, FHWA evaluated all of the Biennial Reporting requirements in the individual regulatory impact assessments (RIA) and determined the following:

**Respondents:** 52 State DOTs, including Washington DC and Puerto Rico.

**Frequency:** Biennially.

**Estimated Average Burden per Response:** Approximately 2,128 hours annually for an individual State DOT to compile, organize, and submit the report to FHWA.

**Estimated Total Annual Burden Hours:** Approximately 110,656 hours annually.

**Public Comments Invited:** You are asked to comment on any aspect of this information collection, including: (1) Ways for the FHWA to enhance the quality, usefulness, and clarity of the collected information; and (2) ways that the burden could be minimized, without reducing the quality of the collected information. The agency will summarize and/or include your comments in the request for OMB's clearance of this information collection.

**Authority:** The Paperwork Reduction Act of 1995; 44 U.S.C. chapter 35, as amended; and 49 CFR 1.48.

Issued On: June 2, 2021.

**Michael Howell,**

*Information Collection Officer.*

[FR Doc. 2021-11918 Filed 6-7-21; 8:45 am]

**BILLING CODE 4910-22-P**

<sup>1</sup> 2nd National Performance Management Measures Rule (PM2): Assessing Pavement Condition for National Highway Performance Program and Bridge Condition for National Highway Performance Program; Assessing Performance of National Highway System, etc. (RIN: 2125-AF53) <https://www.govinfo.gov/content/pkg/FR-2017-01-18/pdf/2017-00550.pdf>.

3rd National Performance Management Measures Rule (PM3): Assessing Performance of National Highway System, Freight Movement on Interstate System, and Congestion Mitigation and Air Quality Improvement Program (RIN 2125-AF54) <https://www.govinfo.gov/content/pkg/FR-2017-01-18/pdf/2017-00681.pdf>.

**DEPARTMENT OF TRANSPORTATION****Federal Railroad Administration****[Docket Number FRA–2021–0031]****Petition for Waiver of Compliance and Extension of Comment Period**

On April 22, 2021, the Federal Railroad Administration (FRA) published notice of its receipt of a petition dated March 9, 2021, from Union Pacific Railroad Company (UP) requesting a waiver of compliance from certain provisions of the Federal railroad safety regulations contained at 49 CFR parts 215 (Railroad Freight Car Safety Standards) and 232 (Brake System Safety Standards for Freight and Other Non-Passenger Trains and Equipment; End-Of-Train Devices). FRA assigned the petition Docket Number FRA–2021–0031.<sup>1</sup>

As noted in FRA's April 22, 2021, notice, UP requested relief from 49 CFR 215.13, *Pre-departure inspection*, which requires an inspection when combining two separate consists including one or more cars and one or more locomotives that have been properly inspected and tested in compliance with all applicable regulations (*i.e.*, both consists have had a Class I brake test (§ 232.205), Class IA brake test (§ 232.207), or have been designated as extended haul trains and are compliant with all requirements of § 232.213). UP states that the requested relief will allow combining two existing and operating trains without additional inspections, besides a Class III brake test. It further states that the relief will allow subsequent separation of two trains without additional inspections, besides a Class III brake test, provided that a record of the original consist remains intact. Although not explicitly referenced in FRA's April 22, 2021, notice, FRA notes that to accomplish the combining and subsequent separation of two existing and operating trains without additional inspections (besides a Class III brake test), UP also requests

<sup>1</sup> FRA notes that UP submitted 3 separate petitions to the docket of this proceeding. The first petition was dated February 24, 2021 (available at <https://www.regulations.gov/document/FRA-2021-0031-0001>). UP submitted a revised petition dated March 9, 2021 (available at <https://www.regulations.gov/document/FRA-2021-0031-0002>). Finally, UP submitted a third petition (also dated March 9, 2021) (available at <https://www.regulations.gov/document/FRA-2021-0031-0004>). UP's third petition corrected minor errors in its earlier petitions as UP explained in separate correspondence. That correspondence is Document No. FRA–2021–0031–0005 in the docket to this proceeding (available at <https://www.regulations.gov/document/FRA-2021-0031-0005>). FRA is considering and will respond to UP's third petition (Document No. FRA–2021–0031–0004).

relief from the requirements of 49 CFR 215.13(b) (pre-departure inspection) and § 232.205 (class I brake test-initial terminal inspection) on the combined and subsequently separated trains.

FRA's April 22, 2021, notice provided a 45-day public comment period (ending June 7, 2021) on UP's request for relief. Subsequent to publication of that notice, in a letter dated May 21, 2021, the Transportation Trades Department, AFL–CIO (TTD) requested that FRA extend the comment period pending FRA's clarification of certain questions related to UP's request for relief. Specifically, TTD asked if UP's request affects end-of-train (EOT) device inspections and inspections related to positive train control. TTD asked if "there are any other pre-departure inspections/duties performed on a locomotive that will be included in this waiver, including 236.587 departure tests." In response to TTD's request for clarification, FRA notes that UP's request for relief is limited to two FRA regulatory requirements—the inspection and test requirements of 49 CFR 215.13 (pre-departure freight car inspection) and § 232.205 (Class I brake test-initial terminal inspection) for trains that have been combined and then subsequently separated as outlined in UP's petition. UP has not requested relief from, and FRA is not considering granting relief from, any other regulatory requirements other than §§ 215.13 and 232.205 under the specific circumstances outlined in UP's March 9, 2021, petition.

A copy of UP's petition, as well as all written communications concerning the petition, is available for review online at [www.regulations.gov](https://www.regulations.gov).

In response to TTD's request, FRA is extending the comment period in this waiver proceeding for an additional 30 days.

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested party desires an opportunity for oral comment and a public hearing, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

All communications concerning these proceedings should identify the appropriate docket number and may be submitted by any of the following methods:

- **Website:** <http://www.regulations.gov>. Follow the online instructions for submitting comments.
- **Fax:** 202–493–2251.

- **Mail:** Docket Operations Facility, U.S. Department of Transportation (DOT), 1200 New Jersey Ave. SE, W12–140, Washington, DC 20590.

Communications received by July 7, 2021, will be considered by FRA before final action is taken. Comments received after that date will be considered if practicable.

Anyone can search the electronic form of any written communications and comments received into any of our dockets by the name of the individual submitting the comment (or signing the document, if submitted on behalf of an association, business, labor union, etc.). Under 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its processes. DOT posts these comments, without edit, including any personal information the commenter provides, to [www.regulations.gov](http://www.regulations.gov), as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at <https://www.transportation.gov/privacy>. See also <https://www.regulations.gov/privacy-notice> for the privacy notice of [www.regulations.gov](http://www.regulations.gov).

Issued in Washington, DC.

**John Karl Alexy,**

*Associate Administrator for Railroad Safety,  
Chief Safety Officer.*

[FR Doc. 2021–11962 Filed 6–7–21; 8:45 am]

**BILLING CODE 4910–06–P**

**DEPARTMENT OF TRANSPORTATION****Federal Railroad Administration****[Docket Number FRA–2010–0011]****Petition for Extension of Waiver of Compliance**

Under part 211 of title 49 Code of Federal Regulations (CFR), this document provides the public notice that on May 17, 2021, Norfolk Southern Corporation (NS) petitioned the Federal Railroad Administration (FRA) for an extension of a waiver of compliance from certain provisions of the Federal railroad safety regulations contained at 49 CFR part 236, Rules, Standards, and Instructions Governing the Installation, Inspection, Maintenance, and Repair of Signal and Train Control Systems, Devices, and Appliances. The relevant Docket Number is FRA–2010–0011.

Specifically, NS requests continued relief from 49 CFR 236.377, *Approach locking*; 236.378, *Time locking*; 236.379, *Route locking*; 236.380, *Indication locking*; and 236.381, *Traffic locking*. The relief would continue the extension of periodic testing schedules from at least once every two years to at least

once every four years at interlockings, control points, and other signal locations controlled by solid-state microprocessor-based equipment.

A copy of the petition, as well as any written communications concerning the petition, is available for review online at [www.regulations.gov](http://www.regulations.gov).

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested party desires an opportunity for oral comment and a public hearing, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

All communications concerning these proceedings should identify the appropriate docket number and may be submitted by any of the following methods:

- *Website:* <http://www.regulations.gov>. Follow the online instructions for submitting comments.
- *Fax:* 202-493-2251.
- *Mail:* Docket Operations Facility, U.S. Department of Transportation (DOT), 1200 New Jersey Ave. SE, W12-140, Washington, DC 20590.

Communications received by July 23, 2021 will be considered by FRA before final action is taken. Comments received after that date will be considered if practicable.

Anyone can search the electronic form of any written communications and comments received into any of our dockets by the name of the individual submitting the comment (or signing the document, if submitted on behalf of an association, business, labor union, etc.). Under 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its processes. DOT posts these comments, without edit, including any personal information the commenter provides, to [www.regulations.gov](http://www.regulations.gov), as described in the system of records notice (DOT/ALL-14 FDMS), which can be reviewed at <https://www.transportation.gov/privacy>. See also <https://www.regulations.gov/privacy-notice> for the privacy notice of [www.regulations.gov](http://www.regulations.gov).

Issued in Washington, DC.

**John Karl Alexy,**

*Associate Administrator for Railroad Safety, Chief Safety Officer.*

[FR Doc. 2021-11964 Filed 6-7-21; 8:45 am]

**BILLING CODE 4910-06-P**

## DEPARTMENT OF TRANSPORTATION

### Office of the Secretary

#### Elizabeth Betsy Pope d/b/a Eastgate Laboratory Testing and Mounir R. Khouri; Removal From the Public Interest Exclusion List

**AGENCY:** Office of the Secretary, DOT.

**ACTION:** Notice.

**SUMMARY:** The Department of Transportation (DOT) issued a decision and order under the Procedures for Transportation Workplace Drug and Alcohol Testing Programs excluding a service agent, Elizabeth “Betsy” Pope d/b/a Eastgate Laboratory Testing in Tennessee and all other places doing business, and all other individuals who are employees or all other individuals associated with Ms. Pope and Eastgate Laboratory Testing, from providing drug and alcohol testing services in any capacity to any DOT-regulated employer for a period of 5 years. Ms. Pope and her company provided Medical Review Officer services to DOT-regulated employers directly and through other service agents when Ms. Pope was not qualified to act as a Medical Review Officer. The 5-year period has ended and Ms. Pope, et al., have been removed from the list of excluded service agents.

**DATES:** This Notice is effective as of January 21, 2021.

**FOR FURTHER INFORMATION CONTACT:** Bohdan Baczara, Deputy Director, U.S. Department of Transportation, Office of Drug and Alcohol Policy and Compliance, 1200 New Jersey Avenue SE, Washington, DC 20590; (202) 366-3784 (voice), (202) 366-3897 (fax), or [Bohdan.Baczara@dot.gov](mailto:Bohdan.Baczara@dot.gov).

**SUPPLEMENTARY INFORMATION:** The Department of Transportation (DOT) issued a decision and order under the Procedures for Transportation Workplace Drug and Alcohol Testing Programs excluding a service agent, Mounir R. Khouri d/b/a Mobile Testing Services, Inc., in Vermont and all other places it is incorporated, franchised, or otherwise doing business, and all other individuals who are officers, employees, directors, shareholders, partners, or other individuals associated with Mr. Khouri and Mobile Testing Services, Inc., from providing drug and alcohol testing services in any capacity to any DOT-regulated employer for a period of 5 years. Mr. Khouri and his company provided Medical Review Officer services to DOT-regulated employers directly and through other service agents when Mr. Khouri was not qualified to act as a Medical Review Officer. The 5-year period has ended

and Mr. Khouri, et al., have been removed from the list of excluded service agents.

The Department published notice of the Public Interest Exclusion for Elizabeth Betsy Pope, et al., on August 24, 2015 (80 FR 51349) and for Mounir R. Khouri, et al., on January 27, 2016 (81 FR 4739). The exclusions were for 5-year periods, respectively, which have now run their term. We have removed Ms. Pope and Mr. Khouri from the DOT’s list of Public Interest Exclusions on our website at: <http://www.transportation.gov/odapc/pie>. We are also notifying the public of the removal by publishing this **Federal Register** notice as required by 49 CFR 40.401(d).

Issued on May 20, 2021, in Washington, DC.

**Bohdan Baczara,**

*Deputy Director, Office of Drug and Alcohol Policy Compliance.*

[FR Doc. 2021-11902 Filed 6-7-21; 8:45 am]

**BILLING CODE 4910-9X-P**

## DEPARTMENT OF THE TREASURY

### Office of Foreign Assets Control

#### Notice of OFAC Sanctions Actions

**AGENCY:** Office of Foreign Assets Control, Treasury.

**ACTION:** Notice.

**SUMMARY:** The U.S. Department of the Treasury’s Office of Foreign Assets Control (OFAC) is publishing the names of one or more persons that have been placed on OFAC’s Specially Designated Nationals and Blocked Persons List (SDN List) based on OFAC’s determination that one or more applicable legal criteria were satisfied. All property and interests in property subject to U.S. jurisdiction of these persons are blocked, and U.S. persons are generally prohibited from engaging in transactions with them.

**DATES:** See Supplementary Information section for effective date(s).

**FOR FURTHER INFORMATION CONTACT:** OFAC: Andrea Gacki, Director, tel.: 202-622-2490; Associate Director for Global Targeting, tel.: 202-622-2420; Assistant Director for Licensing, tel.: 202-622-2480; Assistant Director for Regulatory Affairs, tel.: 202-622-4855; or the Assistant Director for Sanctions Compliance & Evaluation, tel.: 202-622-2490.

#### SUPPLEMENTARY INFORMATION:

##### Electronic Availability

The Specially Designated Nationals and Blocked Persons List and additional

information concerning OFAC sanctions programs are available on OFAC's website (<https://www.treasury.gov/ofac>).

**Notice of OFAC Action(s)**

On June 2, 2021, OFAC determined that the property and interests in property subject to U.S. jurisdiction of

the following persons are blocked under the relevant sanctions authorities listed below.

**BILLING CODE 4810-AL-P**

**Individuals:**

1. BOJKOV, Vassil Kroumov (a.k.a. BOZHKOVA, Vasil (Cyrillic: БОЖКОВ, ВАСИЛ); a.k.a. "Cherepa"; a.k.a. "The Skull"), 79 Vassil Levski Blvd, Sofia 1000, Bulgaria; Dubai, United Arab Emirates; DOB 29 Jul 1956; POB Velingrad, Bulgaria; nationality Bulgaria; Gender Male; Passport 440210366 (Bulgaria) expires 23 Aug 2023; alt. Passport 385950465 (Bulgaria) expires 11 Apr 2024; National ID No. 647475973 (Bulgaria) (individual) [GLOMAG].

Designated pursuant to section 1(a)(iii)(A)(1) of Executive Order 13818 of December 20, 2017, "Blocking the Property of Persons Involved in Serious Human Rights Abuse or Corruption," 82 FR 60839, 3 CFR, 2018 Comp., p. 399, (E.O. 13818) for having materially assisted, sponsored, or provided financial, material, or technological support for, or goods or services to or in support of corruption, including the misappropriation of state assets, the expropriation of private assets for personal gain, corruption related to government contracts or the extraction of natural resources, or bribery that is conducted by a foreign person.

2. PEEVSKI, Delyan Slavchev (Cyrillic: ПЕЕВСКИ, Делян Славчев), 7 Nezabravka Street, Floor 7, Ap. 28, Sofia 1113, Bulgaria; DOB 27 Jul 1980; POB Sofia, Bulgaria; nationality Bulgaria; Gender Male; Passport 383862880 (Bulgaria) expires 11 Mar 2021 (individual) [GLOMAG].

Designated pursuant to section 1(a)(ii)(B)(1) of E.O. 13818 for being a foreign person who is a current or former government official, or a person acting for or on behalf of such an official, who is responsible for or complicit in, or has directly or indirectly engaged in, corruption, including the misappropriation of state assets, the expropriation of private assets for personal gain, corruption related to government contracts or the extraction of natural resources, or bribery.

3. ZHELYAZKOV, Ilko Dimitrov (a.k.a. ZHELYAZKOV, Ilko Dimitrov), Bulgaria; DOB 08 Feb 1958; nationality Bulgaria; Gender Male (individual) [GLOMAG].

Designated pursuant to section 1(a)(ii)(B)(1) of E.O. 13818 for being a foreign person who is a current or former government official, or a person acting for or on behalf of such

an official, who is responsible for or complicit in, or has directly or indirectly engaged in, corruption, including the misappropriation of state assets, the expropriation of private assets for personal gain, corruption related to government contracts or the extraction of natural resources, or bribery.

**Entities:**

1. DECART OOD (a.k.a. DEKART OOD), 2A Krakra Str., Oborishte Distr., Sofia, Stolichna 1504, Bulgaria; Organization Established Date 2003; V.A.T. Number BG 131122494 (Bulgaria) [GLOMAG] (Linked To: VABO SYSTEMS EOOD).

Designated pursuant to section 1(a)(iii)(B) of E.O. 13818 for being owned or controlled by, or to have acted or purported to act for or on behalf of, directly or indirectly, VABO SYSTEMS EOOD, a person whose property and interests in property are blocked pursuant to this order.

2. DIGITAL SERVICES EAD, 43 Moskovska Str., R-N Oborishte Distr, Sofia, Stolichna 1000, Bulgaria; Organization Established Date 2003; V.A.T. Number BG 131131080 (Bulgaria) [GLOMAG] (Linked To: BOJKOV, Vassil Kroumov).

Designated pursuant to section 1(a)(iii)(B) of E.O. 13818 for being owned or controlled by, or to have acted or purported to act for or on behalf of, directly or indirectly, BOJKOV, Vassil Kroumov, a person whose property and interests in property are blocked pursuant to this order.

3. DOMINO GAMES OOD, 2E Prof. Petar Dzhidrov Str., R-N Studentski Distr, Sofia, Bulgaria; Organization Established Date 2014; V.A.T. Number BG 202884681 (Bulgaria) [GLOMAG] (Linked To: DECART OOD).

Designated pursuant to section 1(a)(iii)(B) of E.O. 13818 for being owned or controlled by, or to have acted or purported to act for or on behalf of, directly or indirectly, DECART OOD, a person whose property and interests in property are blocked pursuant to this order.

4. EDE 2 EOOD, 43 Moskovska Str., Oborishte Distr., Sofia, Stolichna 1000, Bulgaria; Organization Established Date 2002; V.A.T. Number BG 130855508 (Bulgaria) [GLOMAG] (Linked To: BOJKOV, Vassil Kroumov).

Designated pursuant to section 1(a)(iii)(B) of E.O. 13818 for being owned or controlled by, or to have acted or purported to act for or on behalf of, directly or indirectly, BOJKOV, Vassil Kroumov, a person whose property and interests in property are blocked pursuant to this order.

5. EUROBET OOD (a.k.a. EUROBET LTD. (Cyrillic: ЕВРОБЕТ – ООД)), 48 Sitnyakovo Blvd., Poduyane Distr., fl. 4, Sofia, Stolichna 1505, Bulgaria; Organization Established Date 1996; V.A.T. Number BG 121179290 (Bulgaria) [GLOMAG] (Linked To: EUROBET PARTNERS OOD).

Designated pursuant to section 1(a)(iii)(B) of E.O. 13818 for being owned or controlled by, or to have acted or purported to act for or on behalf of, directly or indirectly,



EUROBET PARTNERS OOD, a person whose property and interests in property are blocked pursuant to this order.

6. EUROBET PARTNERS OOD, 43 Moskovska Str., Oborishte Distr., Sofia, Stolichna 1000, Bulgaria; Organization Established Date 2016; Government Gazette Number 203950885 (Bulgaria) [GLOMAG] (Linked To: DIGITAL SERVICES EAD).

Designated pursuant to section 1(a)(iii)(B) of E.O. 13818 for being owned or controlled by, or to have acted or purported to act for or on behalf of, directly or indirectly, DIGITAL SERVICES EAD, a person whose property and interests in property are blocked pursuant to this order.

7. EUROBET TRADING EOOD, 48 Sitnyakovo blvd., Poduyane Distr., fl.4, Sofia, Stolichna 1505, Bulgaria; Organization Established Date 2013; V.A.T. Number BG 202647305 (Bulgaria) [GLOMAG] (Linked To: EUROBET OOD).

Designated pursuant to section 1(a)(iii)(B) of E.O. 13818 for being owned or controlled by, or to have acted or purported to act for or on behalf of, directly or indirectly, EUROBET OOD, a person whose property and interests in property are blocked pursuant to this order.

8. EUROFOOTBALL OOD (Cyrillic: ЕВРОФУТБОЛ – ООД) (a.k.a. EUROFOOTBALL LTD), 126, Tsar Boris Iiti blvd., Krasno Selo Distr., Sofia, Stolichna 1612, Bulgaria; Organization Established Date 1993; V.A.T. Number BG 831036657 (Bulgaria) [GLOMAG] (Linked To: EUROSADRUZHIE OOD).

Designated pursuant to section 1(a)(iii)(B) of E.O. 13818 for being owned or controlled by, or to have acted or purported to act for or on behalf of, directly or indirectly, EUROSADRUZHIE OOD, a person whose property and interests in property are blocked pursuant to this order.

9. EUROSADRUZHIE OOD (a.k.a. EUROSADRUZHIE LTD.; a.k.a. EUROSUDRUZHIE LTD.; a.k.a. EVROSADRUZHIE OOD; a.k.a. "EUROCOMPANY LTD."), 43 Moskovska Str., Sofia, Stolichna 1000, Bulgaria; Organization Established Date 2002; V.A.T. Number BG 130855554 (Bulgaria) [GLOMAG] (Linked To: VABO SYSTEMS EOOD).

Designated pursuant to section 1(a)(iii)(B) of E.O. 13818 for being owned or controlled by, or to have acted or purported to act for or on behalf of, directly or indirectly, VABO SYSTEMS EOOD, a person whose property and interests in property are blocked pursuant to this order.

10. GALENIT INVEST AD, 43 Moskovska Str., Oborishte Distr., Sofia, Stolichna 1000, Bulgaria; Organization Established Date 2000; Government Gazette Number 130329006 (Bulgaria) [GLOMAG] (Linked To: BOJKOV, Vassil Kroumov).

Designated pursuant to section 1(a)(iii)(B) of E.O. 13818 for being owned or controlled by, or to have acted or purported to act for or on behalf of, directly or indirectly, BOJKOV, Vassil Kroumov, a person whose property and interests in property are blocked pursuant to this order.

11. LOTTERY DISTRIBUTIONS OOD (Cyrillic: ЛОТЕРИ ДИСТРИБЮШЪНС ООД) (a.k.a. LOTTERY DISTRIBUTIONS LTD), 1 Koloman Str., Krasno selo Distr., Sofia, Stolichna 1618, Bulgaria; Organization Established Date 2004; Government Gazette Number 131251717 (Bulgaria) [GLOMAG] (Linked To: EUROSADRUZHIE OOD).

Designated pursuant to section 1(a)(iii)(B) of E.O. 13818 for being owned or controlled by, or to have acted or purported to act for or on behalf of, directly or indirectly, EUROSADRUZHIE OOD, a person whose property and interests in property are blocked pursuant to this order.

12. MELIORA ACADEMICA EOOD (f.k.a. MELIORA AKADEMIKA), 2E Prof. P. Dzhidrov Str., Studentski Grad Distr., Sofia, Stolichna 1700, Bulgaria; Organization Established Date 2012; V.A.T. Number BG 202052161 (Bulgaria) [GLOMAG] (Linked To: DECART OOD).

Designated pursuant to section 1(a)(iii)(B) of E.O. 13818 for being owned or controlled by, or to have acted or purported to act for or on behalf of, directly or indirectly, DECART OOD, a person whose property and interests in property are blocked pursuant to this order.

13. ML BUILD EAD (a.k.a. ML BILD EAD), 2A Krakra Str., Oborishte Distr., Sofia, Stolichna 1527, Bulgaria; Organization Established Date 2008; V.A.T. Number BG 200108841 (Bulgaria) [GLOMAG] (Linked To: DECART OOD).

Designated pursuant to section 1(a)(iii)(B) of E.O. 13818 for being owned or controlled by, or to have acted or purported to act for or on behalf of, directly or indirectly, DECART OOD, a person whose property and interests in property are blocked pursuant to this order.

14. MOSTSTROY IZTOK AD (a.k.a. MOSTSTROY EAST AD), 3 Moskovska Str., Oborishte Distr., Sofia, Stolichna 1000, Bulgaria; Organization Established Date 2009; Government Gazette Number 200112909 (Bulgaria) [GLOMAG] (Linked To: BOJKOV, Vassil Kroumov).

Designated pursuant to section 1(a)(iii)(B) of E.O. 13818 for being owned or controlled by, or to have acted or purported to act for or on behalf of, directly or indirectly, BOJKOV, Vassil Kroumov, a person whose property and interests in property are blocked pursuant to this order.

15. NATIONAL LOTTERY AD (Cyrillic: НАЦИОНАЛНА ЛОТАРИЯ АД) (a.k.a. NATIONAL LOTTARY), 43 Moskovska Str., Oborishte Distr., Sofia, Stolichna 1000, Bulgaria; Organization Established Date 2013; V.A.T. Number BG 204061981 (Bulgaria) [GLOMAG] (Linked To: NOVE DEVELOPMENT EOOD).

Designated pursuant to section 1(a)(iii)(B) of E.O. 13818 for being owned or controlled by, or to have acted or purported to act for or on behalf of, directly or indirectly, NOVE DEVELOPMENT EOOD, a person whose property and interests in property are blocked pursuant to this order.

16. NATIONAL LOTTERY OOD (a.k.a. NATIONAL LOTTERIES LTD.), 1 Koloman Str., Krasno selo Distr., Sofia, Stolichna 1618, Bulgaria; Organization Established Date 2004;

Government Gazette Number 131251674 (Bulgaria) [GLOMAG] (Linked To: EUROSADRUZHIE OOD).

Designated pursuant to section 1(a)(iii)(B) of E.O. 13818 for being owned or controlled by, or to have acted or purported to act for or on behalf of, directly or indirectly, EUROSADRUZHIE OOD, a person whose property and interests in property are blocked pursuant to this order.

17. NOVE DEVELOPMENT EOOD, 43 Moskovska Str., R-N Oborishte Distr, Sofia, Stolichna 1000, Bulgaria; Organization Established Date 2010; Government Gazette Number 201275656 (Bulgaria) [GLOMAG] (Linked To: NOVE INTERNAL EOOD).

Designated pursuant to section 1(a)(iii)(B) of E.O. 13818 for being owned or controlled by, or to have acted or purported to act for or on behalf of, directly or indirectly, NOVE INTERNAL EOOD, a person whose property and interests in property are blocked pursuant to this order.

18. NOVE INTERNAL EOOD, 43 Moskovska Str., R-N Oborishte Distr, Sofia, Stolichna 1000, Bulgaria; Organization Established Date 2007; V.A.T. Number BG 175382860 (Bulgaria) [GLOMAG] (Linked To: BOJKOV, Vassil Kroumov).

Designated pursuant to section 1(a)(iii)(B) of E.O. 13818 for being owned or controlled by, or to have acted or purported to act for or on behalf of, directly or indirectly, BOJKOV, Vassil Kroumov, a person whose property and interests in property are blocked pursuant to this order.

19. NUMERICAL GAMES OOD (a.k.a. NUMERICAL GAMES LTD.), 1 Koloman Str., Sofia, Stolichna 1618, Bulgaria; Organization Established Date 2004; Government Gazette Number 131252477 (Bulgaria) [GLOMAG] (Linked To: EUROSADRUZHIE OOD).

Designated pursuant to section 1(a)(iii)(B) of E.O. 13818 for being owned or controlled by, or to have acted or purported to act for or on behalf of, directly or indirectly, EUROSADRUZHIE OOD, a person whose property and interests in property are blocked pursuant to this order.

20. PROPERTY-VB OOD, 43 Moskovska Str., R-N Oborishte Distr, Sofia, Stolichna 1000, Bulgaria; Organization Established Date 2006; Government Gazette Number 120598193 (Bulgaria) [GLOMAG] (Linked To: NOVE INTERNAL EOOD).

Designated pursuant to section 1(a)(iii)(B) of E.O. 13818 for being owned or controlled by, or to have acted or purported to act for or on behalf of, directly or indirectly, NOVE INTERNAL EOOD, a person whose property and interests in property are blocked pursuant to this order.

21. REX LOTO AD (a.k.a. REX LOTTO AD), 8 Silistra, Oborishte Distr., Sofia 1504, Bulgaria; Organization Established Date 2006; Government Gazette Number 175010714 (Bulgaria) [GLOMAG] (Linked To: VABO-2005 EOOD).

Designated pursuant to section 1(a)(iii)(B) of E.O. 13818 for being owned or controlled by, or to have acted or purported to act for or on behalf of, directly or indirectly, VABO-

2005 EOOD person whose property and interests in property are blocked pursuant to this order.

22. TRANS NOVE OOD, 43 Moskovska Str., Oborishte Distr., Sofia, Stolichna 1000, Bulgaria; Organization Established Date 2007; V.A.T. Number BG 175433597 (Bulgaria) [GLOMAG] (Linked To: NOVE INTERNAL EOOD).

Designated pursuant to section 1(a)(iii)(B) of E.O. 13818 for being owned or controlled by, or to have acted or purported to act for or on behalf of, directly or indirectly, NOVE INTERNAL EOOD, a person whose property and interests in property are blocked pursuant to this order.

23. VABO SYSTEMS EOOD, 43 Moskovska Str., Sofia, Stolichna 1000, Bulgaria; Organization Established Date 2008; V.A.T. Number BG 200431052 (Bulgaria) [GLOMAG] (Linked To: NOVE INTERNAL EOOD).

Designated pursuant to section 1(a)(iii)(B) of E.O. 13818 for being owned or controlled by, or to have acted or purported to act for or on behalf of, directly or indirectly, NOVE INTERNAL EOOD, a person whose property and interests in property are blocked pursuant to this order.

24. VABO-2005 EOOD (a.k.a. VABO 2005 EOOD), 43 Moskovska, Sofia, Stolichna 1000, Bulgaria; Organization Established Date 2005; V.A.T. Number BG 131502906 (Bulgaria) [GLOMAG] (Linked To: BOJKOV, Vassil Kroumov).

Designated pursuant to section 1(a)(iii)(B) of E.O. 13818 for being owned or controlled by, or to have acted or purported to act for or on behalf of, directly or indirectly, BOJKOV, Vassil Kroumov, a person whose property and interests in property are blocked pursuant to this order.

25. VATO 2002 EOOD, 43 Moskovska Str., Sofia, Stolichna 1000, Bulgaria; Organization Established Date 2002; Government Gazette Number 130839906 (Bulgaria) [GLOMAG] (Linked To: NOVE INTERNAL EOOD).

Designated pursuant to section 1(a)(iii)(B) of E.O. 13818 for being owned or controlled by, or to have acted or purported to act for or on behalf of, directly or indirectly, NOVE INTERNAL EOOD, a person whose property and interests in property are blocked pursuant to this order.

26. ADLER BG AD, 126, Tsar Boris III Str./blvd., R-N Krasno Selo Distr, Sofia, Stolichna 1612, Bulgaria; Organization Established Date 2009; Government Gazette Number 200874603 (Bulgaria) [GLOMAG] (Linked To: NOVE INTERNAL EOOD).

Designated pursuant to section 1(a)(iii)(B) of E.O. 13818 for being owned or controlled by, or to have acted or purported to act for or on behalf of, directly or indirectly, NOVE INTERNAL EOOD, a person whose property and interests in property are blocked pursuant to this order.

27. EFBET PARTNERS OOD, 43 Moskovska Str., R-N Oborishte Distr, Sofia, Stolichna 1000, Bulgaria; Organization Established Date 2017; Government Gazette Number 204839749 (Bulgaria) [GLOMAG] (Linked To: NOVE INTERNAL EOOD).

Designated pursuant to section 1(a)(iii)(B) of E.O. 13818 for being owned or controlled by, or to have acted or purported to act for or on behalf of, directly or indirectly, NOVE INTERNAL EOOD, a person whose property and interests in property are blocked pursuant to this order.

28. EUROGROUP ENGINEERING EAD (a.k.a. EUROGROUP ENGINEERING AD), 43 Moskovska Str., R-N Oborishte Distr, Sofia, Stolichna 1000, Bulgaria; Organization Established Date 2010; Government Gazette Number 201043177 (Bulgaria) [GLOMAG] (Linked To: BOJKOV, Vassil Kroumov).

Designated pursuant to section 1(a)(iii)(B) of E.O. 13818 for being owned or controlled by, or to have acted or purported to act for or on behalf of, directly or indirectly, BOJKOV, Vassil Kroumov, a person whose property and interests in property are blocked pursuant to this order.

29. EVROBET - RUMANIA EOOD (a.k.a. EUROBET - ROMANIA EOOD), 63, Blvd. Shipchenski, Prohod Slatina Distr., Sofia, Stolichna 1574, Bulgaria; Organization Established Date 2010; Government Gazette Number 201220179 (Bulgaria) [GLOMAG] (Linked To: GAMES UNLIMITED OOD).

Designated pursuant to section 1(a)(iii)(B) of E.O. 13818 for being owned or controlled by, or to have acted or purported to act for or on behalf of, directly or indirectly, GAMES UNLIMITED OOD, a person whose property and interests in property are blocked pursuant to this order.

30. GAMES UNLIMITED OOD, 43 Moskovska Str., Oborishte Distr., Sofia, Stolichna 1000, Bulgaria; Organization Established Date 2013; Government Gazette Number 202621673 (Bulgaria) [GLOMAG] (Linked To: VB MANAGEMENT EOOD).

Designated pursuant to section 1(a)(iii)(B) of E.O. 13818 for being owned or controlled by, or to have acted or purported to act for or on behalf of, directly or indirectly, VB MANAGEMENT EOOD, a person whose property and interests in property are blocked pursuant to this order.

31. INTERNEWS 98 OOD, 126, Tsar Boris III Str./blvd., R-N Krasno Selo Distr, Sofia, Stolichna 1612, Bulgaria; Organization Established Date 1998; V.A.T. Number BG 121584837 (Bulgaria) [GLOMAG] (Linked To: NOVE INTERNAL EOOD).

Designated pursuant to section 1(a)(iii)(B) of E.O. 13818 for being owned or controlled by, or to have acted or purported to act for or on behalf of, directly or indirectly, NOVE INTERNAL EOOD, a person whose property and interests in property are blocked pursuant to this order.

32. LOTTERY BG OOD (a.k.a. LOTTERY BG LTD.), 43 Moskovska Str., Oborishte Distr., Sofia, Stolichna 1000, Bulgaria; Organization Established Date 2014; Government Gazette Number 203018962 (Bulgaria) [GLOMAG] (Linked To: VABO 2012 EOOD).

Designated pursuant to section 1(a)(iii)(B) of E.O. 13818 for being owned or controlled by, or to have acted or purported to act for or on behalf of, directly or indirectly, VABO

2012 EOOD, a person whose property and interests in property are blocked pursuant to this order.

33. NOVE PARTNERS OOD, 43 Moskovska Str., Sofia, Stolichna 1000, Bulgaria; Organization Established Date 2007; Government Gazette Number 175392527 (Bulgaria) [GLOMAG] (Linked To: NOVE INTERNAL EOOD).

Designated pursuant to section 1(a)(iii)(B) of E.O. 13818 for being owned or controlled by, or to have acted or purported to act for or on behalf of, directly or indirectly, NOVE INTERNAL EOOD, a person whose property and interests in property are blocked pursuant to this order.

34. OLD GAMES EOOD, 14 Iskar Str., Oborishte Distr., Sofia, Bulgaria; Organization Established Date 2010; Government Gazette Number 201084124 (Bulgaria) [GLOMAG] (Linked To: GAMES UNLIMITED OOD).

Designated pursuant to section 1(a)(iii)(B) of E.O. 13818 for being owned or controlled by, or to have acted or purported to act for or on behalf of, directly or indirectly, GAMES UNLIMITED OOD, a person whose property and interests in property are blocked pursuant to this order.

35. PRIM BG EAD, 126 Bul. Tsar Boris III Blvd., R-N Krasno Selo Distr, Sofia, Stolichna 1612, Bulgaria; Organization Established Date 2010; V.A.T. Number BG 201045769 (Bulgaria) [GLOMAG] (Linked To: BOJKOV, Vassil Kroumov).

Designated pursuant to section 1(a)(iii)(B) of E.O. 13818 for being owned or controlled by, or to have acted or purported to act for or on behalf of, directly or indirectly, BOJKOV, Vassil Kroumov, a person whose property and interests in property are blocked pursuant to this order.

36. SIGURO EOOD, 43 Moskovska Str., R-N Oborishte Distr, Sofia, Stolichna 1000, Bulgaria; Organization Established Date 2005; Government Gazette Number 131567042 (Bulgaria) [GLOMAG] (Linked To: EUROGROUP ENGINEERING EAD).

Designated pursuant to section 1(a)(iii)(B) of E.O. 13818 for being owned or controlled by, or to have acted or purported to act for or on behalf of, directly or indirectly, EUROGROUP ENGINEERING EAD, a person whose property and interests in property are blocked pursuant to this order.

37. VA BO COMPANY EOOD (a.k.a. VA BO KAMPANI EOOD), 43 Moskovska Str., Sofia, Stolichna 1000, Bulgaria; Organization Established Date 2012; Government Gazette Number 202066022 (Bulgaria) [GLOMAG] (Linked To: BOJKOV, Vassil Kroumov).

Designated pursuant to section 1(a)(iii)(B) of E.O. 13818 for being owned or controlled by, or to have acted or purported to act for or on behalf of, directly or indirectly, BOJKOV, Vassil Kroumov, a person whose property and interests in property are blocked pursuant to this order.

38. VABO 2008 EOOD, 43 Moskovska, Sofia, Stolichna 1000, Bulgaria; Organization Established Date 2008; Government Gazette Number 200481087 (Bulgaria) [GLOMAG]

(Linked To: BOJKOV, Vassil Kroumov).

Designated pursuant to section 1(a)(iii)(B) of E.O. 13818 for being owned or controlled by, or to have acted or purported to act for or on behalf of, directly or indirectly, BOJKOV, Vassil Kroumov, a person whose property and interests in property are blocked pursuant to this order.

39. VABO 2012 EOOD (a.k.a. VABO 2012), 43 Moskovska Str., Oborishte Distr., Sofia, Stolichna 1000, Bulgaria; Organization Established Date 2012; V.A.T. Number BG 201884835 (Bulgaria) [GLOMAG] (Linked To: BOJKOV, Vassil Kroumov).

Designated pursuant to section 1(a)(iii)(B) of E.O. 13818 for being owned or controlled by, or to have acted or purported to act for or on behalf of, directly or indirectly, BOJKOV, Vassil Kroumov, a person whose property and interests in property are blocked pursuant to this order.

40. VABO 2017 OOD (a.k.a. VABO 2017 LTD.), 43 Moskovska Str., R-N Oborishte Distr, Sofia, Stolichna 1000, Bulgaria; Organization Established Date 2017; V.A.T. Number BG 204811027 (Bulgaria) [GLOMAG] (Linked To: VABO 2012 EOOD).

Designated pursuant to section 1(a)(iii)(B) of E.O. 13818 for being owned or controlled by, or to have acted or purported to act for or on behalf of, directly or indirectly, VABO 2012 EOOD, a person whose property and interests in property are blocked pursuant to this order.

41. VABO MANAGEMENT EOOD, 43 Moskovska Str., Sofia, Stolichna 1000, Bulgaria; Organization Established Date 2012; Government Gazette Number 201884908 (Bulgaria) [GLOMAG] (Linked To: BOJKOV, Vassil Kroumov).

Designated pursuant to section 1(a)(iii)(B) of E.O. 13818 for being owned or controlled by, or to have acted or purported to act for or on behalf of, directly or indirectly, BOJKOV, Vassil Kroumov, person whose property and interests in property are blocked pursuant to this order.

42. VB MANAGEMENT EOOD, 43 Moskovska Str., Sofia, Stolichna 1000, Bulgaria; Organization Established Date 2012; Government Gazette Number 202080417 (Bulgaria) [GLOMAG] (Linked To: BOJKOV, Vassil Kroumov).

Designated pursuant to section 1(a)(iii)(B) of E.O. 13818 for being owned or controlled by, or to have acted or purported to act for or on behalf of, directly or indirectly, BOJKOV, Vassil Kroumov, a person whose property and interests in property are blocked pursuant to this order.

43. VERTEX PROPERTIES EOOD (a.k.a. VERTEX IMOTI EOOD), 126 Tsar Boris III Str./blvd., R-N Krasno Selo Distr, Sofia, Stolichna 1612, Bulgaria; Organization Established Date 2007; Government Gazette Number 175387373 (Bulgaria) [GLOMAG] (Linked To: BOJKOV, Vassil Kroumov).

Designated pursuant to section 1(a)(iii)(B) of E.O. 13818 for being owned or controlled by, or to have acted or purported to act for or on behalf of, directly or indirectly,

BOJKOV, Vassil Kroumov, a person whose property and interests in property are blocked pursuant to this order.

44. VIHROGONIKA AD, 43 Moskovska Str., R-N Oborishte Distr, Sofia, Stolichna 1000, Bulgaria; Organization Established Date 2016; Government Gazette Number 203892599 (Bulgaria) [GLOMAG] (Linked To: VABO MANAGEMENT EOOD).

Designated pursuant to section 1(a)(iii)(B) of E.O. 13818 for being owned or controlled by, or to have acted or purported to act for or on behalf of, directly or indirectly, VABO MANAGEMENT EOOD, a person whose property and interests in property are blocked pursuant to this order.

45. ANCIENT HERITAGE AD (Cyrillic: АНТИЧНО НАСЛЕДСТВО – АД), 105, Tsarigradsko shose str., Slatina Distr., Sofia, Stolichna 1113, Bulgaria; Organization Established Date 2011; V.A.T. Number BG 201673717 (Bulgaria) [GLOMAG] (Linked To: THRACE FOUNDATION).

Designated pursuant to section 1(a)(iii)(B) of E.O. 13818 for being owned or controlled by, or to have acted or purported to act for or on behalf of, directly or indirectly, THRACE FOUNDATION, a person whose property and interests in property are blocked pursuant to this order.

46. BUL PARTNERS TRAVEL OOD (Cyrillic: БУЛ ПАРТНЕРС ТРАВЕЛ – ООД), 4, Trapezitsa, Sofia, Stolichna 1000, Bulgaria; Organization Established Date 1997; V.A.T. Number BG 121211051 (Bulgaria) [GLOMAG] (Linked To: BOJKOV, Vassil Kroumov).

Designated pursuant to section 1(a)(iii)(B) of E.O. 13818 for being owned or controlled by, or to have acted or purported to act for or on behalf of, directly or indirectly, BOJKOV, Vassil Kroumov, a person whose property and interests in property are blocked pursuant to this order.

47. BULGARIAN SUMMER, Bulgaria; Organization Established Date Jan 2021; Organization Type: Activities of political organizations [GLOMAG] (Linked To: BOJKOV, Vassil Kroumov).

Designated pursuant to section 1(a)(iii)(B) of E.O. 13818 for being owned or controlled by, or to have acted or purported to act for or on behalf of, directly or indirectly, BOJKOV, Vassil Kroumov, a person whose property and interests in property are blocked pursuant to this order.

48. BULLET TRADE OOD (a.k.a. "BULIT TRADE LTD"), 43 Moskovska Str., R-N Oborishte Distr, Sofia, Stolichna 1000, Bulgaria; Organization Established Date 2001; Government Gazette Number 121457476 (Bulgaria) [GLOMAG] (Linked To: BOJKOV, Vassil Kroumov).

Designated pursuant to section 1(a)(iii)(B) of E.O. 13818 for being owned or controlled by, or to have acted or purported to act for or on behalf of, directly or indirectly, BOJKOV, Vassil Kroumov, a person whose property and interests in property are blocked pursuant to this order.



49. CARITEX LUCKY AD (a.k.a. "KARITEKS LAKI AD"), 14, Iskar str., Oborishte Distr., Sofia, Stolichna 1000, Bulgaria; Organization Established Date 1998; V.A.T. Number BG 121633825 (Bulgaria) [GLOMAG] (Linked To: BOJKOV, Vassil Kroumov).

Designated pursuant to section 1(a)(iii)(B) of E.O. 13818 for being owned or controlled by, or to have acted or purported to act for or on behalf of, directly or indirectly, BOJKOV, Vassil Kroumov, a person whose property and interests in property are blocked pursuant to this order.

50. CSKA BASKETBALL CLUB (Cyrillic: БАКЕТБОЛЕН КЛУБ ЦСКА) (a.k.a. PROFESIONALEN BASKETBOLEN KLUB TSSKA 48 AD; a.k.a. PROFESSIONAL BASKETBALL CLUB-CSKA-48 AD), Bul. Dragan Tsankov, N3, Stadion-Tsska, Sofia 1164, Bulgaria; Organization Established Date 2003; V.A.T. Number BG 131083632 (Bulgaria) [GLOMAG] (Linked To: NOVE-AD-HOLDING AD).

Designated pursuant to section 1(a)(iii)(B) of E.O. 13818 for being owned or controlled by, or to have acted or purported to act for or on behalf of, directly or indirectly, NOVE-AD-HOLDING AD, a person whose property and interests in property are blocked pursuant to this order.

51. KRISTIANO GR 53 JSC AD, 43 Moskovska Str., Oborishte Distr., Sofia, Stolichna 1000, Bulgaria; Organization Established Date 2017; Government Gazette Number 204642716 (Bulgaria) [GLOMAG] (Linked To: BOJKOV, Vassil Kroumov).

Designated pursuant to section 1(a)(iii)(B) of E.O. 13818 for being owned or controlled by, or to have acted or purported to act for or on behalf of, directly or indirectly, BOJKOV, Vassil Kroumov, a person whose property and interests in property are blocked pursuant to this order.

52. NOVE-AD-HOLDING AD (Cyrillic: НОВЕ-АД-ХОЛДИНГ – АД), 43 Moskovsa, Oborishte Distr., Sofia 1000, Bulgaria; Organization Established Date 1991; V.A.T. Number BG 121024920 (Bulgaria) [GLOMAG] (Linked To: BOJKOV, Vassil Kroumov).

Designated pursuant to section 1(a)(iii)(B) of E.O. 13818 for being owned or controlled by, or to have acted or purported to act for or on behalf of, directly or indirectly, BOJKOV, Vassil Kroumov, a person whose property and interests in property are blocked pursuant to this order.

53. PARKSTROY-SOFIA OOD (Cyrillic: ПАРКСТРОЙ-СОФИЯ – ООД), Nadezhda 1 Distr., Bl. No 150, apt. 131, Sofia, Bulgaria; Organization Established Date 2002; V.A.T. Number BG 130939917 (Bulgaria) [GLOMAG] (Linked To: NOVE-AD-HOLDING AD).

Designated pursuant to section 1(a)(iii)(B) of E.O. 13818 for being owned or controlled by, or to have acted or purported to act for or on behalf of, directly or indirectly, NOVE-AD-HOLDING AD, a person whose property and interests in property are blocked pursuant to this order.

54. PUBLISHING HOUSE SPORT LTD (a.k.a. "PUBLISHUNG HOUSE SPORT OOD"), sektor V Natsionalen Stadion V. Levski, Distr. Sredets Distr, Sofia, Bulgaria;

Organization Established Date 1993; Government Gazette Number 831134806 (Bulgaria) [GLOMAG] (Linked To: NOVE-AD-HOLDING AD).

Designated pursuant to section 1(a)(iii)(B) of E.O. 13818 for being owned or controlled by, or to have acted or purported to act for or on behalf of, directly or indirectly, NOVE-AD-HOLDING AD, a person whose property and interests in property are blocked pursuant to this order.

55. SIZIF V OOD, Nadezhda 1 Distr., Sofia, Bulgaria; Organization Established Date 1996; V.A.T. Number BG 121136410 (Bulgaria) [GLOMAG] (Linked To: BOJKOV, Vassil Kroumov).

Designated pursuant to section 1(a)(iii)(B) of E.O. 13818 for being owned or controlled by, or to have acted or purported to act for or on behalf of, directly or indirectly, BOJKOV, Vassil Kroumov, a person whose property and interests in property are blocked pursuant to this order.

56. THRACE FOUNDATION, 43 Moskovska Str., R-N Oborishte Distr, Sofia, Stolichna 1000, Bulgaria; Organization Established Date 2004; Government Gazette Number 131258494 (Bulgaria) [GLOMAG] (Linked To: BOJKOV, Vassil Kroumov).

Designated pursuant to section 1(a)(iii)(B) of E.O. 13818 for being owned or controlled by, or to have acted or purported to act for or on behalf of, directly or indirectly, BOJKOV, Vassil Kroumov, a person whose property and interests in property are blocked pursuant to this order.

57. TRAKIA-PAPIR 96 OOD (a.k.a. "TRAKIA-PAPER 96 OOD"), 9 Iskar, Oborishte Distr, Sofia, Bulgaria; Organization Established Date 1996; Government Gazette Number 121220666 (Bulgaria) [GLOMAG] (Linked To: NOVE-AD-HOLDING AD).

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58. VABO INTERNAL AD, 43 Moskovska Str., R-N Oborishte Distr, Sofia, Stolichna 1000, Bulgaria; Organization Established Date 2017; Government Gazette Number 204682034 (Bulgaria) [GLOMAG] (Linked To: BOJKOV, Vassil Kroumov).

Designated pursuant to section 1(a)(iii)(B) of E.O. 13818 for being owned or controlled by, or to have acted or purported to act for or on behalf of, directly or indirectly, BOJKOV, Vassil Kroumov, a person whose property and interests in property are blocked pursuant to this order.

59. BM SYSTEMS EAD, 119 Ekzarh Yosif Str., Oborishte Distr., Sofia 1527, Bulgaria; Organization Established Date 2007; Registration Number 131382912 (Bulgaria) [GLOMAG] (Linked To: INTRUST PLC EAD).

Designated pursuant to section 1(a)(iii)(B) of E.O. 13818 for being owned or controlled by, or to have acted or purported to act for or on behalf of, directly or indirectly,

INTRUST PLC EAD, a person whose property and interests in property are blocked pursuant to this order.

60. INT INVEST EOOD, 119 Ekzarh Yosif Str., Oborishte Distr., Sofia 1527, Bulgaria; 79, Ralevitsa Str., Vitosha Distr., Sofia, Stolichna 1618, Bulgaria; Organization Established Date 2019; V.A.T. Number BG 205535941 (Bulgaria) [GLOMAG] (Linked To: INTRUST PLC EAD).

Designated pursuant to section 1(a)(iii)(B) of E.O. 13818 for being owned or controlled by, or to have acted or purported to act for or on behalf of, directly or indirectly, INTRUST PLC EAD, a person whose property and interests in property are blocked pursuant to this order.

61. INT LTD EOOD, 119 Ul. Ekzarh Yosif Str., R-N Oborishte Distr, Sofia 1527, Bulgaria; 79, Ralevitsa Str., Vitosha Distr., Sofia, Stolichna 1618, Bulgaria; Organization Established Date 2017; V.A.T. Number BG 204589523 (Bulgaria) [GLOMAG] (Linked To: PEEVSKI, Delyan Slavchev).

Designated pursuant to section 1(a)(iii)(B) of E.O. 13818 for being owned or controlled by, or to have acted or purported to act for or on behalf of, directly or indirectly, PEEVSKI, Delyan Slavchev, a person whose property and interests in property are blocked pursuant to this order.

62. INTRUST PLC EAD (a.k.a. INTRUST EAD), 119 Ekzarh Yosif Str., R-N Oborishte Distr, Sofia 1527, Bulgaria; 79, Ralevitsa Str., Vitosha Distr., Sofia, Stolichna 1618, Bulgaria; Organization Established Date 2017; Legal Entity Number 485100GBI2SE0KIX8T70; Registration Number 204589733 (Bulgaria) [GLOMAG] (Linked To: PEEVSKI, Delyan Slavchev).

Designated pursuant to section 1(a)(iii)(B) of E.O. 13818 for being owned or controlled by, or to have acted or purported to act for or on behalf of, directly or indirectly, PEEVSKI, Delyan Slavchev, a person whose property and interests in property are blocked pursuant to this order.

63. INTTRAFIK EOOD (a.k.a. INTTRAFFIC EOOD), 119 Ekzarh Yosif Str., Oborishte Distr., Sofia 1527, Bulgaria; 102, Balcaria blvd., Vitosha Distr., Apt. 59, Sofia, Stolichna 1618, Bulgaria; Organization Established Date 2018; V.A.T. Number BG 205244843 (Bulgaria) [GLOMAG] (Linked To: INTRUST PLC EAD).

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64. REAL ESTATES INT LTD EOOD, 119 Ul. Ekzarh Yosif Str., R-N Oborishte Distr., Sofia 1527, Bulgaria; 79, Ralevitsa Str., Vitosha Distr., Sofia, Stolichna 1618, Bulgaria; Organization Established Date 2018; V.A.T. Number BG 204930572 (Bulgaria) [GLOMAG] (Linked To: INTRUST PLC EAD).

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INTRUST PLC EAD, a person whose property and interests in property are blocked pursuant to this order.

Dated: June 2, 2021.

**Bradley T. Smith,**

*Acting Director, Office of Foreign Assets Control.*

[FR Doc. 2021-11897 Filed 6-7-21; 8:45 am]

**BILLING CODE 4810-AL-C**

**DEPARTMENT OF THE TREASURY**

**Internal Revenue Service**

**Electronic Tax Administration Advisory Committee (ETAAC); Notice of Virtual Public Meeting**

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Notice of meeting.

**SUMMARY:** The Electronic Tax Administration Advisory Committee (ETAAC) will hold a virtual public meeting on Wednesday, June 23, 2021.

**FOR FURTHER INFORMATION CONTACT:** Mr. Sean Parman, Office of National Public Liaison, at (202) 317-6247, or send an email to [publicliaison@irs.gov](mailto:publicliaison@irs.gov).

**SUPPLEMENTARY INFORMATION:** Notice is hereby given pursuant to section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1988), that a virtual public meeting of the ETAAC will be held on Wednesday, June 23, 2021 from 9:00 a.m. to 11:00 a.m. EDT. The purpose of the ETAAC is to provide continuing advice regarding the development and implementation of the IRS organizational strategy for electronic tax administration. ETAAC is an organized public forum for discussion of electronic tax administration issues such as prevention of identity theft and refund fraud. It supports the overriding goal that paperless filing should be the preferred and most convenient method of filing tax and information returns. ETAAC members convey the public's perceptions of IRS electronic tax administration activities, offer constructive observations about current or proposed policies, programs, and procedures, and suggest improvements. Please call or email Sean Parman to confirm your attendance. Mr. Parman can be reached at 202-317-6247 or [PublicLiaison@irs.gov](mailto:PublicLiaison@irs.gov). Should you wish the ETAAC to consider a written statement, please call 202-317-6247 or email: [PublicLiaison@irs.gov](mailto:PublicLiaison@irs.gov).

Dated: June 2, 2021.

**John Lipold,**

*Designated Federal Official Branch Chief, National Public Liaison.*

[FR Doc. 2021-11913 Filed 6-7-21; 8:45 am]

**BILLING CODE 4830-01-P**

**DEPARTMENT OF THE TREASURY**

**United States Mint**

**Notification of Citizens Coinage Advisory Committee June 15-16, 2021, Public Meeting**

**ACTION:** Notice of meeting.

Pursuant to United States Code, Title 31, section 5135(b)(8)(C), the United States Mint announces the Citizens Coinage Advisory Committee (CCAC) teleconference public meeting scheduled for June 15-16, 2021.

*Date:* June 15, 2021 and June 16, 2021.

*Time:* 12:30-4:30 p.m. (ET) on June 15, 2021, and 10:00 a.m.-4:15 p.m. (ET) on June 16, 2021.

*Location:* This meeting will occur via teleconference. Interested members of the public may dial in to listen to the meeting at (888) 330-1716; Access Code: 1137147.

*Subject:* Review and discussion of the obverse and reverse candidate designs for the 2022 Negro Leagues Baseball Commemorative Coin (*Pub. L. 116-209*); obverse and reverse candidate designs for the Merrill's Marauders Congressional Gold Medal (*Pub. L. 116-170*); obverse and reverse candidate designs for the 2022 Purple Heart Hall of Honor Commemorative Coin (*Pub. L. 116-247*); and candidate designs for the 2022 American Women Quarters (*Pub. L. 116-330*).

*Interested persons should call the CCAC HOTLINE at (202) 354-7502 for the latest update on meeting time and access information.*

The CCAC advises the Secretary of the Treasury on any theme or design proposals relating to circulating coinage, bullion coinage, Congressional Gold Medals, and national and other medals; advises the Secretary of the Treasury with regard to the events, persons, or places to be commemorated by the issuance of commemorative coins in each of the five calendar years succeeding the year in which a commemorative coin designation is made; and makes recommendations with respect to the mintage level for any commemorative coin recommended.

For members of the public interested in listening in to the provided call number, this is a reminder that the public attendance is for listening purposes only. Any member of the public interested in submitting matters for the CCAC's consideration is invited to submit them by email to [info@ccac.gov](mailto:info@ccac.gov).

*For Accommodation Request:* If you need an accommodation to listen to the CCAC meeting, please contact the Diversity Management and Civil Rights Office by June 9, 2021 at 202-354-7260 or 1-888-646-8369 (TTY).

**FOR FURTHER INFORMATION CONTACT:**

Jennifer Warren, United States Mint Liaison to the CCAC; 801 9th Street NW; Washington, DC 20220; or call 202-354-7208.

(Authority: 31 U.S.C. 5135(b)(8)(C))

**Eric Anderson,**

*Executive Secretary, United States Mint.*

[FR Doc. 2021-11936 Filed 6-7-21; 8:45 am]

**BILLING CODE P**

**DEPARTMENT OF VETERANS AFFAIRS**

**Advisory Committee: VA National Academic Affiliations Council, Notice of Meeting**

The Department of Veterans Affairs (VA) gives notice under the Federal Advisory Committee Act that, 5 U.S.C. App. 2, the VA National Academic Affiliations Council (Council) will meet via conference call on July 15, from 1:00 p.m. to 3:00 p.m. EST. The meeting is open to the public.

The purpose of the Council is to advise the Secretary on matters affecting partnerships between VA and its academic affiliates.

On July 15, 2021, the Council will receive a report on the recently held VA Minority Summit; discussion on research priorities and relationships; and status of VA's Electronic Health Record implementation. The Council will receive public comments from 2:50 p.m. to 2:55 p.m. EST.

Interested persons may attend and/or present oral statements to the Council. The dial in number to attend the conference call is: 669-254-5252. At the prompt, enter meeting ID 161 174 4403, then press #. The meeting passcode is 590228, then press #. Individuals seeking to present oral statements are invited to submit a 1-2 page summary

of their comments at the time of the meeting for inclusion in the official meeting record. Oral presentations will be limited to five minutes or less, depending on the number of participants. Interested parties may also provide written comments for review by the Council prior to the meeting or at

any time, by email to *Larissa.Emory@va.gov* or by mail to Larissa A. Emory PMP, CBP, MS, Designated Federal Officer, Office of Academic Affiliations (14AA), 810 Vermont Avenue NW, Washington, DC 20420. Any member of the public wishing to participate or seeking additional information should

contact Ms. Emory via email or by phone at (915) 269-0465.

Dated: June 2, 2021.

**Jelessa M. Burney,**  
*Federal Advisory Committee Management Officer.*

[FR Doc. 2021-11914 Filed 6-7-21; 8:45 am]

**BILLING CODE P**

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