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Federal Register

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

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

OFFICE OF MANAGEMENT AND BUDGET

2 CFR Parts 25 and 200

[Docket No. 2020-17468]

Guidance for Grants and Agreements

AGENCY: Office of Management and Budget.

ACTION: Correcting amendments.

SUMMARY: The Office of Management and Budget (OMB) is correcting the final guidance that appeared in the **Federal Register** on August 13, 2020. That document incorrectly cited specific sections or laws and inadvertently omitted specific language from the revisions. This amendment fixes citations and references and clarifies specific language.

DATES: Effective on February 22, 2021.

FOR FURTHER INFORMATION CONTACT: Nicole Waldeck or Gil Tran at the OMB Office of Federal Financial Management at GrantsTeam@omb.eop.gov or 202-395-3993.

SUPPLEMENTARY INFORMATION: This is a summary of the revisions to OMB's Guidance for Grants and Agreements published August 13, 2020 (85 FR 49506).

List of Subjects in 2 CFR Parts 25 and 200

Accounting, Administrative practice and procedure, Colleges and universities, Grant programs, Grants administration, Hospitals, Indians, Loan programs, Nonprofit organizations, Reporting and recordkeeping requirements, State and local governments.

Accordingly, 2 CFR parts 25 and 200 are corrected by making the following correcting amendments:

PART 25—UNIVERSAL IDENTIFIER AND SYSTEM FOR AWARD MANAGEMENT

■ 1. The authority citation for part 25 continues to read as follows:

Authority: Pub. L. 109-282; 31 U.S.C. 6102.

■ 2. Revise paragraph 3 of item C of Appendix A to Part 25 to read as follows:

Appendix A to 2 CFR Part 25—Award Term

* * * * *

C. * * *

3. *Entity* includes non-Federal entities as defined at 2 CFR 200.1 and also includes all of the following, for purposes of this part:
a. A foreign organization;
b. A foreign public entity;
c. A domestic for-profit organization; and
d. A Federal agency.
* * * * *

PART 200—UNIFORM ADMINISTRATIVE REQUIREMENTS, COST PRINCIPLES, AND AUDIT REQUIREMENTS FOR FEDERAL AWARDS

■ 3. The authority citation for part 200 continues to read as follows:

Authority: 31 U.S.C. 503.

■ 4. In § 200.1, add in alphabetical order the definition of *Federal awarding agency* and revise the definition of *oversight agency for audit* to read as follows:

§ 200.1 Definitions

* * * * *

Federal awarding agency means the Federal agency that provides a Federal award directly to a non-Federal entity.

* * * * *

Oversight agency for audit means the Federal awarding agency that provides the predominant amount of funding directly (direct funding) (as listed on the schedule of expenditures of Federal awards, see § 200.510(b)) to a non-Federal entity unless OMB designates a specific cognizant agency for audit. When the direct funding represents less than 25 percent of the total Federal expenditures (as direct and sub-awards) by the non-Federal entity, then the Federal agency with the predominant amount of total funding is the designated oversight agency for audit. When there is no direct funding, the

Federal awarding agency which is the predominant source of pass-through funding must assume the oversight responsibilities. The duties of the oversight agency for audit and the process for any reassignments are described in § 200.513(b).
* * * * *

§§ 200.2 through 200.99 [Removed]

■ 5. Remove §§ 200.2 through 200.99.

■ 6. In § 200.101, revise paragraphs (e) introductory text and (f) introductory text to read as follows:

§ 200.101 Applicability.

* * * * *

(e) *Program applicability.* Except for §§ 200.203, 200.216, and 200.331 through 200.333, the requirements in subparts C, D, and E of this part do not apply to the following programs:
* * * * *

(f) *Additional program applicability.* Except for §§ 200.203 and 200.216, the guidance in subpart C of this part does not apply to the following programs:
* * * * *

■ 7. In § 200.102, revise paragraph (c) to read as follows:

§ 200.102 Exceptions.

* * * * *

(c) The Federal awarding agency may adjust requirements to a class of Federal awards or non-Federal entities when approved by OMB, or when required by Federal statutes or regulations, except for the requirements in subpart F of this part. A Federal awarding agency may apply less restrictive requirements when making fixed amount awards as defined in subpart A of this part, except for those requirements imposed by statute or in subpart F of this part.
* * * * *

■ 8. In § 200.206, revise paragraph (a)(1) to read as follows:

§ 200.206 Federal awarding agency review of risk posed by applicants.

(a) * * * (1) Prior to making a Federal award, the Federal awarding agency is required by the Payment Integrity Information Act of 2019, 31 U.S.C. 3301 note, and 41 U.S.C. 2313 to review information available through any OMB-designated repositories of governmentwide eligibility qualification or financial integrity information as appropriate. See also suspension and debarment requirements at 2 CFR part

180 as well as individual Federal agency suspension and debarment regulations in title 2 of the Code of Federal Regulations.

* * * * *

■ 9. In § 200.318, revise paragraph (e) to read as follows:

§ 200.318 General Procurement standards.

* * * * *

(e) To foster greater economy and efficiency, and in accordance with efforts to promote cost-effective use of shared services across the Federal Government, the non-Federal entity is encouraged to enter into state and local intergovernmental agreements or inter-entity agreements where appropriate for procurement or use of common or shared goods and services. Competition requirements will be met with documented procurement actions using strategic sourcing, shared services, and other similar procurement arrangements.

* * * * *

■ 10. In § 200.332, revise paragraph (d)(4) to read as follows:

§ 200.332 Requirements for pass-through entities.

* * * * *

(d) * * *

(4) The pass-through entity is responsible for resolving audit findings specifically related to the subaward and not responsible for resolving crosscutting findings. If a subrecipient has a current Single Audit report posted in the Federal Audit Clearinghouse and has not otherwise been excluded from receipt of Federal funding (e.g., has been debarred or suspended), the pass-through entity may rely on the subrecipient's cognizant audit agency or cognizant oversight agency to perform audit follow-up and make management decisions related to cross-cutting findings in accordance with section § 200.513(a)(3)(vii). Such reliance does not eliminate the responsibility of the pass-through entity to issue subawards that conform to agency and award-specific requirements, to manage risk through ongoing subaward monitoring, and to monitor the status of the findings that are specifically related to the subaward.

* * * * *

■ 11. In § 200.416, revise paragraph (c) to read as follows:

§ 200.416 Cost allocation plans and indirect cost proposals.

* * * * *

(c) The requirements for development and submission of cost allocation plans (for central service costs and public

assistance programs) and indirect cost rate proposals are contained in appendices V, VI and VII to this part.

* * * * *

■ 12. In § 200.509, revise paragraph (a) to read as follows:

§ 200.509 Auditor selection.

(a) Auditor procurement. In procuring audit services, the auditee must follow the procurement standards prescribed by the Procurement Standards in §§ 200.317 through 200.327 of subpart D of this part or the FAR (48 CFR part 42), as applicable. In requesting proposals for audit services, the objectives and scope of the audit must be made clear and the non-Federal entity must request a copy of the audit organization's peer review report which the auditor is required to provide under GAGAS. Factors to be considered in evaluating each proposal for audit services include the responsiveness to the request for proposal, relevant experience, availability of staff with professional qualifications and technical abilities, the results of peer and external quality control reviews, and price. Whenever possible, the auditee must make positive efforts to utilize small businesses, minority-owned firms, and women's business enterprises, in procuring audit services as stated in § 200.321, or the FAR (48 CFR part 42), as applicable.

* * * * *

■ 13. In § 200.514, revise paragraph (c)(4) to read as follow:

§ 200.514 Scope of audit.

* * * * *

(c) * * *

(4) When internal control over some or all of the compliance requirements for a major program are likely to be ineffective in preventing or detecting noncompliance, the planning and performing of testing described in paragraph (c)(3) of this section are not required for those compliance requirements. However, the auditor must report a significant deficiency or material weakness in accordance with § 200.516, assess the related control risk at the maximum, and consider whether additional compliance tests are required because of ineffective internal control.

* * * * *

■ 14. Revise Appendix IX to Part 200 to read as follows:

Appendix IX to Part 200—Hospital Cost Principles

Until such time as revised guidance is proposed and implemented for hospitals, the existing principles located at 45 CFR part 75 Appendix IX, entitled "Principles for Determining Cost

Applicable to Research and Development Under Grants and Contracts with Hospitals," remain in effect.

Deidre A. Harrison, Deputy Controller (Acting).

[FR Doc. 2021-02969 Filed 2-19-21; 8:45 am]

BILLING CODE 3110-01-P

DEPARTMENT OF AGRICULTURE

Farm Service Agency

7 CFR Parts 761

[Docket ID USDA-2019-0007]

RIN 0560-AA16

Farm Loan Programs, Debt Settlement

AGENCY: Farm Service Agency, USDA.

ACTION: Correcting amendments.

SUMMARY: The Farm Service Agency (FSA) amended the Farm Loan Programs Debt Settlement regulations in through a final rule published in the Federal Register on June 17, 2020. This correction is to remove a certain word that erroneously appeared in the regulation.

DATES: Effective: February 22, 2021.

FOR FURTHER INFORMATION CONTACT: Bill Cobb; telephone (202) 720-4671; email: Bill.Cobb@usda.gov. Persons with disabilities who require alternative means for communication should contact the USDA Target Center at (202) 720-2600 (voice).

SUPPLEMENTARY INFORMATION: This document corrects the regulations in 7 CFR part 761, which was implemented in the final rule that was published in the Federal Register on June 17, 2020 (85 FR 36670-36714). This correction is to remove the word "or" at the end of the sentence and to end the sentence with a period in 7 CFR 761.403(c)(3).

List of Subjects in 7 CFR Part 761

Accounting, Administrative practice and procedure, Loan programs-agriculture, Reporting and recordkeeping requirements, Rural areas.

Accordingly, 7 CFR part 761 is corrected by making the following correcting amendment:

PART 761—FARM LOAN PROGRAMS; GENERAL PROGRAM ADMINISTRATION

■ 1. The authority citation for part 761 continues to read as follows:

Authority: 5 U.S.C. 301 and 7 U.S.C. 1989.

Subpart F—Farm Loan Programs Debt Settlement

■ 2. Amend § 761.403 by revising paragraph (c)(3) to read as follows:

§ 761.403 General.

* * * * *

(c) * * *

(3) The debtor's account is involved in a fiscal irregularity investigation in which final action has not been taken or the account shows evidence that a shortage may exist and an investigation will be requested.

* * * * *

Steven Peterson,

Acting Administrator, Farm Service Agency.

[FR Doc. 2021-03186 Filed 2-19-21; 8:45 am]

BILLING CODE 3410-05-P

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

[Docket No. FAA-2020-0459; Product Identifier 2020-NM-049-AD; Amendment 39-21380; AD 2021-01-04]

RIN 2120-AA64

Airworthiness Directives; The Boeing Company Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for all The Boeing Company Model 737 series airplanes, excluding Model 737-100, -200, -200C, -300, -400, and -500 series airplanes. This AD was prompted by reports of cracked or completely severed lugs in the upper aft corner stop fitting assembly of the forward entry door. This AD requires an inspection, a measurement, or a records check of that assembly to determine the part number, and replacement if a certain part is found. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective March 29, 2021.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of March 29, 2021.

ADDRESSES: For service information identified in this final rule, contact Boeing Commercial Airplanes, Attention: Contractual & Data Services (C&DS), 2600 Westminister Blvd., MC 110-SK57, Seal Beach, CA 90740-5600;

telephone 562-797-1717; internet <https://www.myboeingfleet.com>. You may view this service information at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206-231-3195. It is also available on the internet at <https://www.regulations.gov> by searching for and locating Docket No. FAA-2020-0459.

Examining the AD Docket

You may examine the AD docket on the internet at <https://www.regulations.gov> by searching for and locating Docket No. FAA-2020-0459; 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:

Michael Bumbaugh, Aerospace Engineer, Airframe Section, FAA, Seattle ACO Branch, 2200 South 216th St., Des Moines, WA 98198; phone and fax: 206-231-3522; email: michael.bumbaugh@faa.gov.

SUPPLEMENTARY INFORMATION:**Discussion**

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to all The Boeing Company Model 737 series airplanes, excluding Model 737-100, -200, -200C, -300, -400, and -500 series airplanes. The NPRM published in the **Federal Register** on June 3, 2020 (85 FR 34136). The NPRM was prompted by reports of cracked or completely severed lugs in the upper aft corner stop fitting assembly of the forward entry door. Analysis of the design of the stop fitting assembly revealed that undersized wall thickness of the lug made it susceptible to fatigue cracking, which may result in the forward entry door being unable to sustain limit load. In the NPRM, the FAA proposed to require an inspection, a measurement, or a records check of that assembly to determine the part number, and replacement if a certain part-numbered assembly is installed.

The FAA is issuing this AD to address cracked or completely severed lugs, which could result in reduced structural integrity of the forward entry door and consequent rapid decompression of the airplane.

Discussion of Final Airworthiness Directive**Comments**

The FAA received comments from four commenters. The following presents the comments received on the NPRM and the FAA's response to each comment.

Effect of Winglets on Accomplishment of the Proposed Actions

Aviation Partners Boeing stated that the installation of winglets per Supplemental Type Certificate (STC) ST00830SE does not affect compliance with the proposed actions.

The FAA agrees that the installation of winglets per STC ST00830SE would not affect the ability to replace the affected stop fitting assembly with a newly designed stop fitting assembly as required by this AD. Operators of airplanes with these winglets do not need to request a "change in product" alternative method of compliance (AMOC) approval as specified in 14 CFR 39.17. The FAA has redesignated paragraph (c) of the proposed AD as paragraph (c)(1) of this AD, and added paragraph (c)(2) accordingly.

Request for Compliance Actions at the Component Level

Southwest Airlines (SWA) asked that the compliance actions be reported at the component level due to the interchangeability of the forward entry doors between the Model 737 NG and 737 MAX fleets.

The FAA infers that the commenter is requesting that the AD's applicability point towards the component parts, rather than the airplane. The FAA acknowledges that the component most likely to be rotated is the forward entry door because doors are likely removed with the stop fittings intact. However, the FAA disagrees with changing the applicability of this AD because the unsafe condition is related to the stop fitting assembly and an affected stop fitting assembly may be installed on a forward entry door of any airplane identified in paragraph (c) of this AD. In addition, paragraph (i) of this AD, "Parts Installation Prohibition," states that no person may install a forward entry door that has a stop fitting assembly with part number (P/N) 141A6104-3 on any airplane. The FAA used this language because doors are often rotated among aircraft with the stop fitting assembly already installed. The FAA has therefore determined that an airplane-level applicability is appropriate and has not changed this AD in this regard.

Request for Clarification of Compliance Time

SWA asked for clarification of the reference in paragraph (g) of the proposed AD to the applicable times specified in the “Compliance” paragraph of Boeing Alert Requirements Bulletin 737–52A1180 RB, dated January 24, 2020. SWA asked if once it is determined that a P/N 141A6104–3 fitting is installed on a door through records or survey, the fitting must be replaced before further flight or whether it can be replaced at a later date as long as the door is still within its required compliance time per the referenced service information.

“Table 1: Forward Entry Door Number 7 Stop Fitting Assembly Inspection” of Paragraph 3., “Compliance” of Boeing Service Bulletin 737–52A1180, dated January 24, 2020, gives the compliance time for replacing the P/N 141A6104–3 fitting if found. The compliance time is before 10,000 total flight cycles on the forward entry door, or within 5,000 forward entry door flight cycles after the original issue date of Boeing Alert Requirements Bulletin 737–52A1180 RB, dated January 24, 2020, whichever occurs later. However, under paragraph (h) of this AD, the date for determining compliance time is the effective date of this AD, and not the issue date of the bulletin. Therefore, the FAA clarifies that if the compliance time has not yet been reached, then the fitting does not need to be replaced before further flight. The FAA has not changed this AD in this regard.

Request To Change Parts Installation Prohibition Paragraph

SWA asked that the FAA reword paragraph (i) of the proposed AD to require compliance with the service information before installation of the fitting instead of prohibiting installation of the fitting.

The intent of paragraph (i) of this AD is to prohibit installation of an affected part on an airplane with a compliance time for this prohibition related to the airplane configuration and whether the actions specified in Boeing Alert Requirements Bulletin 737–52A1180 RB, dated January 24, 2020, must be accomplished on that airplane. The FAA has not made the changes requested by the commenter. However,

the FAA has revised paragraph (i) of this AD to clarify that, for any airplane required to accomplish the actions required by paragraph (g) of this AD, the parts installation prohibition does not take effect until the applicable actions required by paragraph (g) of this AD have been accomplished on that airplane. For airplanes having an original airworthiness certificate or original export certificate of airworthiness dated after the effective date of this AD, the parts installation prohibition continues to be applicable as of the effective date of this AD.

Request for Correction of Error in Service Information

AIRDO requested the FAA correct an error in the service information incorporated by reference in paragraph (g) of the proposed AD. AIRDO noted that page 13 of Boeing Alert Requirements Bulletin 737–52A1180 RB, dated January 24, 2020, refers to the procedures in “SB 747–52A1180” when the correct reference is “SB 737–52A1180.”

The FAA agrees with the commenter’s request. The FAA has added paragraph (h)(3) of this AD to clarify the correct service information reference.

Request To Limit the Applicability

American Airlines (AA) and AIRDO requested the FAA limit the applicability of the proposed AD to the line numbers (L/Ns) identified in the effectivity of Boeing Alert Service Bulletin 737–52A1180, dated January 24, 2020. AA stated that because the aircraft illustrated parts catalog (IPC) does not allow for the unsafe part to be installed on aircraft beyond L/N 1075, or on the door assemblies allowed to be installed on aircraft beyond L/N 1075, including all Model 737–600, –700, –700C, –800, –900, and –900ER series airplanes in the applicability of the proposed AD is unnecessarily redundant. AIRDO stated Boeing has not allowed operators to install P/Ns 141A6104–3, 141A6150–1, 141A6150–2, and 141A6100–678 on airplanes other than those with L/N 1–1075 per the IPC and related drawings. AIRDO also stated that if the fitting or the door assembly must be replaced, operators will check the IPC and drawing to confirm if the affected part number can be used on the

specific airplane. AIRDO stated that based on this general protocol, even though the fitting and door assembly are physically interchangeable, a suspected fitting and door assembly cannot be installed on airplanes having L/N 1076 and subsequent.

The FAA does not agree with the requests to limit the applicability. Both the stop fitting assemblies and the doors they are installed on are physically interchangeable among the airplane models listed in the applicability of this AD. The FAA has determined it is necessary to ensure these rotatable parts will not be introduced on other airplanes by including these airplanes in the applicability of this AD. Therefore, the FAA has not changed this AD in this regard.

Conclusion

The FAA reviewed the relevant data, considered the 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 in these products. Except for the 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 Boeing Alert Requirements Bulletin 737–52A1180 RB, dated January 24, 2020. The service information specifies procedures for an inspection, a measurement, or a records check of the upper aft corner stop fitting assembly to determine the part number, and applicable on-condition actions. The on-condition action is to replace the affected stop fitting assembly with a newly designed stop fitting assembly that has improved wall thickness and strength. This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the ADDRESSES section.

Costs of Compliance

The FAA estimates that this AD affects 1,075 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
Inspection and part replacement ..	Up to 4 work-hours × \$85 per hour = Up to \$340 ...	\$4,640	Up to \$4,980	Up to \$5,353,500.

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

Authority for This Rulemaking

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

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

Regulatory Findings

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:

2021-01-04 The Boeing Company:

Amendment 39-21380; Docket No. FAA-2020-0459; Product Identifier 2020-NM-049-AD.

(a) Effective Date

This airworthiness directive (AD) is effective March 29, 2021.

(b) Affected ADs

None.

(c) Applicability

(1) This AD applies to all The Boeing Company Model 737 series airplanes, excluding Model 737-100, -200, -200C, -300, -400, and -500 series airplanes, certificated in any category.

(2) Installation of Supplemental Type Certificate (STC) ST00830SE does not affect the ability to accomplish the actions required by this AD. Therefore, for airplanes on which STC ST00830SE is installed, a "change in product" alternative method of compliance (AMOC) approval request is not necessary to comply with the requirements of 14 CFR 39.17.

(d) Subject

Air Transport Association (ATA) of America Code 52, Doors.

(e) Unsafe Condition

This AD was prompted by reports of cracked or completely severed lugs in the stop fitting assembly of the forward entry door. The FAA is issuing this AD to address such cracking or severing, which could result in reduced structural integrity of the forward entry door and consequent rapid decompression of the airplane.

(f) Compliance

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

(g) Required Actions

For airplanes having a date of issuance of the original airworthiness certificate or date of issuance of the original export certificate of airworthiness on or before the effective date of this AD: Except as specified by paragraph (h) of this AD, at the applicable times specified in the "Compliance" paragraph of Boeing Alert Requirements Bulletin 737-52A1180 RB, dated January 24, 2020, do all applicable actions identified in, and in accordance with, the Accomplishment Instructions of Boeing Alert Requirements Bulletin 737-52A1180 RB, dated January 24, 2020.

Note 1 to paragraph (g): Guidance for accomplishing the actions required by this AD can be found in Boeing Alert Service Bulletin 737-52A1180, dated January 24, 2020, which is referred to in Boeing Alert Requirements Bulletin 737-52A1180 RB, dated January 24, 2020.

(h) Exceptions to Service Information Specifications

(1) Where Boeing Alert Requirements Bulletin 737-52A1180 RB, dated January 24, 2020, uses the phrase "the original issue date of Requirements Bulletin 737-52A1180 RB," this AD requires using "the effective date of this AD."

(2) Where Boeing Alert Requirements Bulletin 737-52A1180 RB, dated January 24, 2020, specifies contacting Boeing for repair instructions: This AD requires doing the repair before further flight using a method approved in accordance with the procedures specified in paragraph (j) of this AD.

(3) Where the heading in Table 1 of the Accomplishment Instructions in Boeing Alert Requirements Bulletin 737-52A1180 RB, dated January 24, 2020, identifies "SB 747-52A1180," the correct reference for this AD is "SB 737-52A1180."

(i) Parts Installation Prohibition

No person may install a stop fitting assembly with part number 141A6104-3 or a forward entry door that has a stop fitting assembly with part number 141A6104-3, on any airplane, as of the applicable time specified in paragraph (i)(1), (2), or (3) of this AD.

(1) For airplanes having an original airworthiness certificate or original export certificate of airworthiness dated after the effective date of this AD: As of the effective date of this AD.

(2) For airplanes on which it is determined a stop fitting assembly with part number 141A6104-3 is not installed, as required by paragraph (g) of this AD: After accomplishing the inspection, records check, or measurement required by paragraph (g) of this AD.

(3) For airplanes on which it is determined a stop fitting assembly with part number 141A6104-3 is installed, as required by paragraph (g) of this AD: After accomplishing the replacement required by paragraph (g) of this AD.

(j) Alternative Methods of Compliance (AMOCs)

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

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

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

method, modification deviation, or alteration deviation must meet the certification basis of the airplane, and the approval must specifically refer to this AD.

(k) Related Information

(1) For more information about this AD, contact Michael Bumbaugh, Aerospace Engineer, Airframe Section, FAA, Seattle ACO Branch, 2200 South 216th St., Des Moines, WA 98198; phone and fax: 206–231–3522; email: michael.bumbaugh@faa.gov.

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

(l) Material Incorporated by Reference

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

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

(i) Boeing Alert Requirements Bulletin 737–52A1180 RB, dated January 24, 2020.

(ii) [Reserved]

(3) For service information identified in this AD, contact Boeing Commercial Airplanes, Attention: Contractual & Data Services (C&DS), 2600 Westminister Blvd., MC 110–SK57, Seal Beach, CA 90740–5600; telephone 562–797–1717; internet <https://www.myboeingfleet.com>.

(4) You may view this service information at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195.

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

Issued on December 28, 2020.

Lance T. Gant,

Director, Compliance & Airworthiness Division, Aircraft Certification Service.

[FR Doc. 2021–01851 Filed 2–19–21; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2020–1109; Product Identifier 2020–NM–067–AD; Amendment 39–21383; AD 2021–01–07]

RIN 2120–AA64

Airworthiness Directives; The Boeing Company Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for certain The Boeing Company Model 737–700 series airplanes. This AD requires repetitive testing to verify correct operation of the smoke clearance mode of the equipment cooling system and low pressure environmental control system, and corrective actions if necessary. This AD also requires installing new relays and changing the wiring to the environmental control system, among other actions. This AD was prompted by a determination that a repetitive test is needed to assess the components on airplanes equipped with a certain air distribution system configuration. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective March 9, 2021.

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

The FAA must receive comments on this AD by April 8, 2021.

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

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

- *Fax:* 202–493–2251.

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

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

For service information identified in this final rule, contact Boeing Commercial Airplanes, Attention: Contractual & Data Services (C&DS), 2600 Westminister Blvd., MC 110–SK57, Seal Beach, CA 90740–5600; telephone 562–797–1717; internet <https://www.myboeingfleet.com>. You may view this service information at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195. It is also available on the internet at <https://www.regulations.gov> by searching for and locating Docket No. FAA–2020–1109.

Examining the AD Docket

You may examine the AD docket on the internet at <https://www.regulations.gov> by searching for and locating Docket No. FAA–2020–1109; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, any comments received, and other information. The street address for Docket Operations is listed above. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Susan L. Monroe, Aerospace Engineer, Cabin Safety and Environmental Systems Section, FAA, Seattle ACO Branch, 2200 South 216th St., Des Moines, WA 98198; phone and fax: 206–231–3570; email: susan.l.monroe@faa.gov.

SUPPLEMENTARY INFORMATION:

Discussion

The FAA has determined that a repetitive test is needed to assess the components on airplanes equipped with a certain air distribution system configuration. A review by Boeing found that there was no maintenance procedure available to assess the components used to reconfigure the air distribution system to the cargo fire mode. Without the repetitive test, failures of components could be latent for extended periods. This condition, if not addressed, could result in latent failures of the equipment cooling system and low pressure environmental control system, which, in combination with a cargo fire event, could result in smoke in the flight deck and/or main cabin, and possible loss of aircraft control.

Other Related Rulemaking

The FAA issued AD 2016–04–06, Amendment 39–18400 (81 FR 9756, February 26, 2016) (AD 2016–04–06), applicable to all The Boeing Company Model 737–600, –700, –700C, –800, –900, and –900ER series airplanes. That AD requires doing repetitive testing to verify correct operation of the equipment cooling system and low pressure environmental control system, and corrective actions if necessary. That AD also requires, for certain airplanes, installing new relays and changing the wiring to the environmental control system. That AD was prompted by a determination that a repetitive test is needed to inspect the components on airplanes equipped with a certain air distribution system configuration. The actions required by that AD are intended to address latent failures of the equipment cooling system and low

pressure environmental control system, which, in combination with a cargo fire event, could result in smoke in the flight deck and/or main cabin, and possible loss of aircraft control.

Since issuance of that AD, the FAA has determined that additional actions are necessary to address the same unsafe condition identified in AD 2016-04-06 for The Boeing Company Model 737-700 series airplanes having line numbers (L/Ns) 481, 545, 684, 979, 1089, 1211, and 1223. Those actions have been included in the revised service information specified in paragraphs (g) and (h) of this AD. This AD adds the requirements of paragraph (h) that include installing new relays and changing the wiring to the environmental control system, and accomplishing certain concurrent actions, for the affected airplanes.

Relationship Between This AD and AD 2016-04-06

This AD does not supersede AD 2016-04-06. Rather, the FAA has determined that a stand-alone AD would be more appropriate to address the requirements of this AD. AD 2016-04-06 did not address the unsafe condition for the 7 airplanes mentioned previously and identified in paragraph (c) of this AD. To address the unsafe condition for these 7 airplanes, this AD requires repetitive testing to verify correct operation of the smoke clearance mode of the equipment cooling system and low pressure environmental control system, and corrective actions if necessary; and also requires installing new relays and changing the wiring to the environmental control system, and accomplishing certain concurrent actions. As such, this AD terminates all of the requirements of AD 2016-04-06 for the airplanes identified in paragraph (c) of this AD only.

Related Service Information Under 1 CFR Part 51

The FAA reviewed the following service information:

Boeing Alert Service Bulletin 737-26A1122, Revision 3, dated January 31, 2020. This service information describes procedures for installing new relays and changing the wiring to the environmental control system.

Boeing Alert Service Bulletin 737-26A1137, Revision 2, dated January 27, 2020. This service information describes procedures for repetitive testing to verify correct operation of the smoke clearance mode of the equipment cooling system and low pressure environmental control system, and applicable corrective actions.

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

FAA’s Determination

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

AD Requirements

This AD requires accomplishing the actions specified in the service information described previously.

FAA’s Justification and Determination of the Effective Date

There are currently no domestic operators of these products. Therefore, the FAA finds that notice and opportunity for prior public comment are unnecessary and that good cause exists for making this amendment effective in less than 30 days.

Comments Invited

This AD is a final rule that involves requirements affecting flight safety and was not preceded by notice and an opportunity for public comment. However, the FAA invites you to send any written data, views, or arguments about this final rule. Send your comments to an address listed under the ADDRESSES section. Include Docket No. FAA-2020-1109 and Product Identifier 2020-NM-067-AD at the beginning of your comments. The FAA specifically invites comments on the overall regulatory, economic, environmental, and energy aspects of this final rule. The FAA will consider all comments received by the closing date and may amend this final rule 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, as well as a report summarizing each substantive public contact with FAA personnel concerning this AD. The FAA will consider all comments received by the closing date for comments. The FAA may amend this AD because of those comments.

Confidential Business Information

CBI is commercial or financial information that is both customarily and actually treated as private by its owner. Under the Freedom of Information Act (FOIA) (5 U.S.C. 552), CBI is exempt from public disclosure. If your comments responsive to this AD 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 AD, 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 AD. Submissions containing CBI should be sent to Susan L. Monroe, Aerospace Engineer, Cabin Safety and Environmental Systems Section, FAA, Seattle ACO Branch, 2200 South 216th St., Des Moines, WA 98198; phone and fax: 206-231-3570; email: susan.l.monroe@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.

Regulatory Flexibility Act (RFA)

The requirements of the RFA do not apply when an agency finds good cause pursuant to 5 U.S.C. 553 to adopt a rule without prior notice and comment. Because the FAA has determined that it has good cause to adopt this rule without notice and comment, RFA analysis is not required.

Costs of Compliance

Currently, there are no affected U.S.-registered airplanes. For any affected airplane that is imported and placed on the U.S. Register in the future, the FAA provides the following cost estimates to comply with this AD:

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product
Operational Test	4 work-hours × \$85 per hour = \$340 per test cycle	\$0	\$340 per test cycle.
New relays/wiring changes	104 work hours × \$85 per hour = \$8,840	11,417	\$20,257.

We estimate the following costs to do any necessary system fault isolation and replacements that would be required

based on the results of the operational test. We have no way of determining the

number of aircraft that might need these actions:

ON-CONDITION COSTS

Action	Labor cost	Parts cost	Cost per product
Perform system fault isolation and replace faulty component	10 work-hours × \$85 per hour = \$850	\$0	\$850

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2021-01-07 The Boeing Company:
Amendment 39-21383; Docket No. FAA-2020-1109; Product Identifier 2020-NM-067-AD.

(a) Effective Date

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

(b) Affected ADs

This AD affects AD 2016-04-06, Amendment 39-18400 (81 FR 9756, February 26, 2016) (“AD 2016-04-06”).

(c) Applicability

This AD applies to The Boeing Company Model 737-700 airplanes, certificated in any category, having line numbers (L/Ns) 481, 545, 684, 979, 1089, 1211, and 1223.

(d) Subject

Air Transport Association (ATA) of America Code 2120, Air Distribution System.

(e) Unsafe Condition

This AD was prompted by a determination that a repetitive test is needed to assess the components on airplanes equipped with a certain air distribution system configuration. The FAA is issuing this AD to address latent failures of the equipment cooling system and low pressure environmental control system, which, in combination with a cargo fire event, could result in smoke in the flight deck and/or main cabin, and possible loss of aircraft control.

(f) Compliance

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

(g) Repetitive Operational Tests and Corrective Actions

At the applicable times identified in paragraph 1.E., “Compliance” of Boeing Alert Service Bulletin 737-26A1137, Revision 2, dated January 27, 2020, except as required by paragraph (i) of this AD, do the test to verify correct operation of the smoke clearance mode of the equipment cooling system and

low pressure environmental control system, and do all applicable corrective actions, in accordance with the Accomplishment Instructions of Boeing Alert Service Bulletin 737-26A1137, Revision 2, dated January 27, 2020. Do all applicable corrective actions before further flight. Repeat the test thereafter at intervals not to exceed 9,000 flight hours.

(h) Concurrent Requirements

Before or concurrently with accomplishing the initial operational test required by paragraph (g) of this AD, install new relays and change the wiring to the environmental control system, in accordance with the Accomplishment Instructions of Boeing Alert Service Bulletin 737-26A1122, Revision 3, dated January 31, 2020. When the actions required by this paragraph are performed, the installation and changes specified in paragraph 1.B. “Concurrent Requirements” of Boeing Alert Service Bulletin 737-26A1122, Revision 3, dated January 31, 2020, must also be done.

(i) Exceptions to Service Information Specifications

Where Boeing Alert Service Bulletin 737-26A1137, Revision 2, dated January 27, 2020, uses the phrase “the R02 issue date of SB 737-26A1137,” this AD requires using “the effective date of this AD.”

(j) Terminating Action for AD 2016-04-06

As of the effective date of this AD, for the airplanes identified in paragraph (c) of this AD only, the requirements of AD 2016-04-06 are terminated.

(k) Alternative Methods of Compliance (AMOCs)

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

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

(3) An AMOC that provides an acceptable level of safety may be used for any repair, modification, or alteration required by this AD if it is approved by The Boeing Company Organization Designation Authorization (ODA) that has been authorized by the

Manager, Seattle ACO Branch, FAA, to make those findings. To be approved, the repair method, modification deviation, or alteration deviation must meet the certification basis of the airplane, and the approval must specifically refer to this AD.

(4) For service information that contains steps that are labeled as Required for Compliance (RC), the provisions of paragraphs (k)(4)(i) and (ii) of this AD apply.

(i) The steps labeled as RC, including substeps under an RC step and any figures identified in an RC step, must be done to comply with the AD. If a step or substep is labeled "RC Exempt," then the RC requirement is removed from that step or substep. An AMOC is required for any deviations to RC steps, including substeps and identified figures.

(ii) Steps not labeled as RC may be deviated from using accepted methods in accordance with the operator's maintenance or inspection program without obtaining approval of an AMOC, provided the RC steps, including substeps and identified figures, can still be done as specified, and the airplane can be put back in an airworthy condition.

(l) Related Information

For more information about this AD, contact Susan L. Monroe, Aerospace Engineer, Cabin Safety and Environmental Systems Section, FAA, Seattle ACO Branch, 2200 South 216th St., Des Moines, WA 98198; phone and fax: 206-231-3570; email: susan.l.monroe@faa.gov.

(m) Material Incorporated by Reference

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

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

(i) Boeing Alert Service Bulletin 737-26A1122, Revision 3, dated January 31, 2020.

(ii) Boeing Alert Service Bulletin 737-26A1137, Revision 2, dated January 27, 2020.

(3) For service information identified in this AD, contact Boeing Commercial Airplanes, Attention: Contractual & Data Services (C&DS), 2600 Westminister Blvd., MC 110-SK57, Seal Beach, CA 90740-5600; telephone 562-797-1717; internet <https://www.myboeingfleet.com>.

(4) You may view this service information at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206-231-3195.

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

Issued on December 30, 2020.

Lance T. Gant,

Director, Compliance & Airworthiness Division, Aircraft Certification Service.

[FR Doc. 2021-01823 Filed 2-19-21; 8:45 am]

BILLING CODE 4910-13-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA-2020-0855; Project Identifier MCAI-2020-00909-T; Amendment 39-21385; AD 2021-02-02]

RIN 2120-AA64

Airworthiness Directives; Saab AB, Support and Services (Formerly Known as Saab AB, Saab Aeronautics) Airplanes

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

ACTION: Final rule.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for all Saab AB, Support and Services Model SAAB 2000 airplanes. This AD was prompted by a report of inadvertently reversed connections of the outboard and inboard channel harnesses of the wheel speed transducers in the main landing gear (MLG) wheel axles. This AD requires an inspection for correct installation of the MLG anti-skid system harnesses and corrective actions if necessary, as specified in a European Union Aviation Safety Agency (EASA) AD, which is incorporated by reference. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective March 29, 2021.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of March 29, 2021.

ADDRESSES: For material incorporated by reference (IBR) in this AD, contact the EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; phone: +49 221 8999 000; email: ADs@easa.europa.eu; internet: www.easa.europa.eu. You may find this IBR material on the EASA website at <https://ad.easa.europa.eu>. You may view this IBR material at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206-231-3195. It is also available in the AD docket on the internet at <https://www.regulations.gov> by searching for and locating Docket No. FAA-2020-0855.

www.regulations.gov by searching for and locating Docket No. FAA-2020-0855.

Examining the AD Docket

You may examine the AD docket on the internet at <https://www.regulations.gov> by searching for and locating Docket No. FAA-2020-0855; 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: Shahram Daneshmandi, Aerospace Engineer, Large Aircraft Section, International Validation Branch, FAA, 2200 South 216th St., Des Moines, WA 98198; phone and fax: 206-231-3220; email: shahram.daneshmandi@faa.gov.

SUPPLEMENTARY INFORMATION:

Discussion

The EASA, which is the Technical Agent for the Member States of the European Union, has issued EASA AD 2020-0137, dated June 18, 2020 (EASA AD 2020-0137) (referred to after this as the Mandatory Continuing Airworthiness Information, or the MCAI), to correct an unsafe condition for all Saab AB, Support and Services Model SAAB 2000 airplanes.

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to all Saab AB, Support and Services Model SAAB 2000 airplanes. The NPRM published in the **Federal Register** on October 1, 2020 (85 FR 61877). The NPRM was prompted by a report of inadvertently reversed connections of the outboard and inboard channel harnesses of the wheel speed transducers in the MLG wheel axles. The NPRM proposed to require an inspection for correct installation of the MLG anti-skid system harnesses and corrective actions if necessary, as specified in an EASA AD.

The FAA is issuing this AD to address inadvertently reversed connections of the outboard and inboard channel harnesses of the wheel speed transducers in the MLG wheel axles, which could lead to wrong inputs to the anti-skid function, whenever activated, with consequent reduced braking capability, and possibly result in damage to the airplane and loss of control during landing. See the MCAI for additional background information.

Comments

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

Conclusion

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

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

Related Service Information Under 14 CFR Part 51

EASA AD 2020–0137 describes procedures for a one-time inspection for correct installation of the outboard and inboard left-hand and right-hand MLG anti-skid system harnesses and corrective actions if necessary. Corrective actions include troubleshooting and verification of the

installation of inboard and outboard anti-skid harnesses on the left-hand and right-hand MLG; and removal, inspection, and repair of any incorrectly installed inboard and outboard anti-skid harnesses. This material is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

Costs of Compliance

The FAA estimates that this AD affects 11 airplanes of U.S. registry. The FAA estimates the following costs to comply with this AD:

ESTIMATED COSTS FOR REQUIRED ACTIONS

Labor cost	Parts cost	Cost per product	Cost on U.S. operators
4 work-hours × \$85 per hour = \$340	\$0	\$340	\$3,740

The FAA has received no definitive data that would enable providing cost estimates for the on-condition actions specified in this AD.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

- (1) Is not a “significant regulatory action” under Executive Order 12866,

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2021–02–02 Saab AB, Support and Services (Formerly Known as Saab AB, Saab Aeronautics): Amendment 39–21385; Docket No. FAA–2020–0855; Project Identifier MCAI–2020–00909–T.

(a) Effective Date

This airworthiness directive (AD) is effective March 29, 2021.

(b) Affected ADs

None.

(c) Applicability

This AD applies to all Saab AB, Support and Services Model SAAB 2000 airplanes, certificated in any category.

(d) Subject

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

(e) Reason

This AD was prompted by a report of inadvertently reversed connections of the outboard and inboard channel harnesses of the wheel speed transducers in the main landing gear (MLG) wheel axles. The FAA is issuing this AD to address inadvertently reversed connections of the outboard and inboard channel harnesses of the wheel speed transducers in the MLG wheel axles, which could lead to wrong inputs to the anti-skid function, whenever activated, with consequent reduced braking capability, and possibly result in damage to the airplane and loss of control during landing.

(f) Compliance

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

(g) Requirements

Except as specified in paragraph (h) of this AD: Comply with all required actions and compliance times specified in, and in accordance with, European Union Aviation Safety Agency (EASA) AD 2020–0137, dated June 18, 2020 (EASA AD 2020–0137).

(h) Exceptions to EASA AD 2020–0137

(1) Where EASA AD 2020–0137 refers to its effective date, this AD requires using the effective date of this AD.

(2) The “Remarks” section of EASA AD 2020–0137 does not apply to this AD.

(i) Other FAA AD Provisions

The following provisions also apply to this AD:

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

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

(j) Related Information

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

(k) Material Incorporated by Reference

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

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

(i) European Union Aviation Safety Agency (EASA) AD 2020-0137, dated June 18, 2020.

(ii) [Reserved]

(3) For EASA AD 2020-0137, contact the EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; phone: +49 221 8999 000; email: ADS@easa.europa.eu; internet: www.easa.europa.eu. You may find this EASA AD on the EASA website at <https://ad.easa.europa.eu>.

(4) You may view this material at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206-231-3195. This material may be found in the AD docket on the internet at <https://www.regulations.gov> by searching for and locating Docket No. FAA-2020-0855.

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

Issued on January 4, 2021.

Lance T. Gant,

Director, Compliance & Airworthiness Division, Aircraft Certification Service.

[FR Doc. 2021-01824 Filed 2-19-21; 8:45 am]

BILLING CODE 4910-13-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA-2020-1037; Project Identifier 2019-SW-077-AD; Amendment 39-21407; AD 2021-03-04]

RIN 2120-AA64

Airworthiness Directives; Airbus Helicopters Deutschland GmbH Helicopters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for certain Airbus Helicopters Deutschland GmbH Model EC135P1, EC135P2, EC135P2+, EC135P3, EC135T1, EC135T2, EC135T2+, and EC135T3 helicopters. This AD requires removing certain Titanium (Ti) bolts from service and prohibits installing these Ti-bolts in a critical area. This AD was prompted by a report of a broken Ti-bolt. The actions of this AD are intended to address an unsafe condition on these products.

DATES: This AD is effective March 29, 2021.

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

Examining the AD Docket

You may examine the AD docket on the internet at <https://www.regulations.gov> by searching for and locating Docket No. FAA-2020-1037; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this AD, the European Union Aviation Safety Agency (EASA) AD, any 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:

Katherine Venegas, Aviation Safety Engineer, Los Angeles ACO, FAA, 3960 Paramount Blvd., Lakewood, CA 90712; telephone 562-627-5353; email katherine.venegas@faa.gov.

SUPPLEMENTARY INFORMATION:

Discussion

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to Airbus Helicopters Deutschland GmbH Model EC135P1, EC135P2, EC135P2+, EC135P3, EC135T1, EC135T2, EC135T2+, and EC135T3 helicopters with a Ti-bolt part number (P/N) L535M2001203 marked with manufacturer monogram "D" or with an illegible manufacturer monogram installed on the forward tail rotor (T/R) drive shaft. The NPRM published in the **Federal Register** on November 30, 2020 (85 FR 76490). The NPRM proposed to require removing any affected Ti-bolt installed on the forward T/R drive shaft from service and prohibit installing an affected Ti-bolt on the forward T/R drive shaft of any helicopter. The proposed requirements were intended to prevent failure of an affected Ti-bolt installed in a critical location, possibly resulting in reduced control of the helicopter.

The NPRM was prompted by EASA AD No. 2019-0199, dated August 16, 2019, issued by EASA, which is the Technical Agent for the Member States of the European Union, to correct an unsafe condition for Airbus Helicopters Deutschland GmbH (AHD), formerly Eurocopter Deutschland GmbH, Eurocopter España S.A., Model EC135 P1, EC135 P2, EC135 P2+, EC135 P3, EC135 T1, EC135 T2, EC135 T2+, EC135 T3, EC635 P2+, EC635 P3, EC635 T1, EC635 T2+, and EC635 T3 helicopters. EASA advises of a report of a broken Ti-bolt. Subsequent investigation revealed that an improper heat treatment process was accomplished on a batch of Ti-bolts, which can lead to hydrogen embrittlement. The investigation also identified the critical location where these Ti-bolts are installed on helicopters. According to EASA, this condition, if not detected and corrected, could lead to failure of an affected Ti-bolt installed in a critical location, possibly resulting in reduced control of the helicopter. Accordingly, the EASA AD requires a one-time inspection of Ti-bolt P/N L535M2001203 marked with

manufacturer monogram “D” or with an illegible manufacturer monogram installed on the forward T/R drive shaft and, depending on the inspection results, replacing the Ti-bolt. The EASA AD also prohibits the (re)installation of these Ti-bolts.

Comments

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

FAA’s Determination

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

Differences Between This AD and the EASA AD

The EASA AD applies to Model EC135 P1, EC135 P2, EC135 P2+, EC135 P3, EC135 T1, EC135 T2, EC135 T2+, EC135 T3, EC635 P2+, EC635 P3, EC635 T1, EC635 T2+, and EC635 T3 helicopters and requires inspecting Ti-bolt P/N L535M2001203 marked with manufacturer monogram “D” or with an illegible manufacturer monogram installed on the forward T/R drive shaft. This AD applies to Model EC135P1, EC135P2, EC135P2+, EC135P3, EC135T1, EC135T2, EC135T2+, and EC135T3 helicopters with a Ti-bolt P/N L535M2001203 marked with manufacturer monogram “D” or with an illegible manufacturer monogram installed on the forward T/R drive shaft instead. This AD does not apply to Model EC635 P2+, EC635 P3, EC635 T1, EC635 T2+, or EC635 T3 helicopters because these models are not FAA type-certificated. The EASA AD requires discarding the affected Ti-bolts, whereas this AD requires removing the affected Ti-bolts from service instead.

Related Service Information

The FAA reviewed Airbus Helicopters Alert Service Bulletin (ASB) No. EC135–00A–001, Revision 1, dated September 2, 2019, for Airbus Helicopters Deutschland GmbH Model EC135 T1, T2, T2+, T3, P1, P2, P2+, P3, 635 T1,

635 T2+, 635 T3, 635 P2+, and 635 P3 helicopters, and Airbus Helicopters ASB No. EC135H–00A–001, Revision 1, dated September 2, 2019, for Airbus Helicopters Deutschland GmbH Model EC135, T3H, P3H, 635 T3H, and 635 P3H helicopters. This service information specifies inspecting the forward T/R drive shaft, distance plate of the 5B–0.50–2.50P–XN–1 antenna, main rotor controls, FWD connection of ball bearing control, and AFT connection of ball bearing control and yaw actuator for the installation of Ti-bolt P/N L535M2001203, EN3308–040020F, L221M1040201, EN3740–060020F, and EN3308–060020F, marked with manufacturer monogram “D” or an illegible manufacturer monogram. If a specified Ti-bolt is installed, the service information specifies replacing the Ti-bolt and discarding the removed Ti-bolt.

Costs of Compliance

The FAA estimates that this AD affects 326 helicopters of U.S. Registry. Labor rates are estimated at \$85 per work-hour. Based on these numbers, the FAA estimates that operators may incur the following costs in order to comply with this AD.

Replacing a Ti-bolt takes about four work-hours and parts cost about \$82 for an estimated cost of \$422 per Ti-bolt.

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 helicopters identified in this rulemaking action.

Regulatory Findings

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

responsibilities among the various levels of government.

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2021–03–04 Airbus Helicopters

Deutschland GmbH: Amendment 39–21407; Docket No. FAA–2020–1037; Project Identifier 2019–SW–077–AD.

(a) Applicability

This airworthiness directive (AD) applies to Airbus Helicopters Deutschland GmbH Model EC135P1, EC135P2, EC135P2+, EC135P3, EC135T1, EC135T2, EC135T2+, and EC135T3 helicopters, certificated in any category, with a Titanium (Ti) bolt part number L535M2001203 marked with manufacturer monogram “D” or with an illegible manufacturer monogram installed on the forward tail rotor drive shaft.

Note 1 to paragraph (a): Helicopters with an EC135P3H designation are Model EC135P3 helicopters. Helicopters with an EC135T3H designation are Model EC135T3 helicopters.

(b) Unsafe Condition

This AD defines the unsafe condition as failure of an affected Ti-bolt installed in a critical location, possibly resulting in reduced control of the helicopter.

(c) Effective Date

This AD becomes effective March 29, 2021.

(d) Compliance

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

(e) Required Actions

(1) Within 50 hours time-in-service or 3 months, whichever occurs first, remove any Ti-bolt identified in paragraph (a) of this AD, located on the forward tail rotor drive shaft, from service.

(2) As of the effective date of this AD, do not install a Ti-bolt identified in paragraph (a) of this AD on the forward tail rotor drive shaft of any helicopter.

(f) Alternative Methods of Compliance (AMOCs)

(1) The Manager, Strategic Policy Rotorcraft Section, FAA, may approve AMOCs for this AD. Send your proposal to: Manager, Strategic Policy Rotorcraft Section, FAA, 10101 Hillwood Pkwy., Fort Worth, TX 76177; telephone 817-222-5110; email 9-ASW-FTW-AMOC-Requests@faa.gov.

(2) For operations conducted under a 14 CFR part 119 operating certificate or under 14 CFR part 91, subpart K, the FAA suggests that you notify your principal inspector, or lacking a principal inspector, the manager of the local flight standards district office or certificate holding district office, before operating any aircraft complying with this AD through an AMOC.

(g) Additional Information

(1) Airbus Helicopters Alert Service Bulletin (ASB) No. EC135-00A-001 and ASB No. EC135H-00A-001, each Revision 1 and dated September 2, 2019, which are not incorporated by reference, contain additional information about the subject of this AD. For service information identified in this AD, contact Airbus Helicopters, 2701 N. Forum Drive, Grand Prairie, TX 75052; telephone 972-641-0000 or 800-232-0323; fax 972-641-3775; or at <https://www.airbus.com/helicopters/services/technical-support.html>. You may view a copy of the service information at the FAA, Office of the Regional Counsel, Southwest Region, 10101 Hillwood Pkwy, Room 6N-321, Fort Worth, TX 76177.

(2) The subject of this AD is addressed in European Union Aviation Safety Agency (EASA) AD No. 2019-0199, dated August 16, 2019. You may view the EASA AD on the internet at <https://www.regulations.gov> in Docket No. FAA-2020-1037.

(h) Subject

Joint Aircraft Service Component (JASC) Code: 1430, Fasteners; and 6510, Tail Rotor Drive Shaft.

Issued on January 22, 2021.

Lance T. Gant,

Director, Compliance & Airworthiness Division, Aircraft Certification Service.

[FR Doc. 2021-01848 Filed 2-19-21; 8:45 am]

BILLING CODE 4910-13-P

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

[Docket No. FAA-2020-0849; Project Identifier MCAI-2020-01036-A; Amendment 39-21374; AD 2020-26-19]

RIN 2120-AA64

Airworthiness Directives; Pilatus Aircraft Ltd. Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for all Pilatus Aircraft Ltd. Model PC-7 airplanes. This AD results from mandatory continuing airworthiness information (MCAI) originated by an aviation authority of another country to identify and correct an unsafe condition on an aviation product. This AD requires revising the Airworthiness Limitations section (ALS) of the existing aircraft maintenance manual (AMM) to introduce new mandatory repetitive inspections for the flap pivot arm assemblies and for certain wing angle brackets, and to implement a change to the Oxygen cylinder and pressure reducer task item. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective March 29, 2021.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of March 29, 2021.

ADDRESSES: For service information identified in this final rule, contact Pilatus Aircraft Ltd., CH-6371, Customer Technical Support (MCC), P.O. Box 992, CH-6371, Stans, Switzerland; phone: +41 (0)41 619 67 74; fax: +41 (0)41 619 67; email: techsupport@pilatus-aircraft.com; website: <https://www.pilatus-aircraft.com/en/>. You may view this service information at the FAA, Airworthiness Products Section, Operational Safety Branch, 901 Locust, Kansas City, Missouri 64106. For information on the availability of this material at the FAA, call (816) 329-4148. It is also available at <https://www.regulations.gov> by searching for and locating Docket No. FAA-2020-0849.

Examining the AD Docket

You may examine the AD docket at <https://www.regulations.gov> by searching for and locating Docket No.

FAA-2020-0849; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, the MCAI, 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:

Doug Rudolph, Aerospace Engineer, FAA, General Aviation & Rotorcraft Section, International Validation Branch, 901 Locust, Room 301, Kansas City, Missouri 64106; phone: (816) 329-4059; fax: (816) 329-4090; email: doug.rudolph@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 all Pilatus Aircraft Ltd. Model PC-7 airplanes. The NPRM published in the **Federal Register** on September 24, 2020 (85 FR 60097). The NPRM was prompted by MCAI originated by the Federal Office for Civil Aviation (FOCA), which is the aviation authority for Switzerland. FOCA has issued FOCA AD HB-2020-007, dated July 23, 2020 (referred to after this as the MCAI), to correct an unsafe condition with new mandatory instructions for continued airworthiness for all Pilatus Aircraft Ltd. Model PC-7 airplanes. The MCAI states:

The airworthiness limitations and certification maintenance instructions for Pilatus PC-7 aeroplanes, which are approved by FOCA, are currently defined and published in the Pilatus PC-7 AMM Chapter 5. These instructions have been identified as mandatory for continued airworthiness.

Failure to accomplish these instructions could result in an unsafe condition [discrepancies of life-limited and overhauled components, which could result in reduced structural integrity and system reliability of the airplane].

Previously, FOCA issued AD HB-2019-004 (later corrected) to require implementation of the maintenance tasks and airworthiness limitations as specified in Pilatus PC-7 AMM Document Number 01715, or Document Number 02416, both at issue 44, as applicable. [These tasks included the added wing angle bracket at rib 23 repetitive inspections.]

Since that AD was issued, Pilatus amended the ALS, as defined in this AD, to introduce new mandatory repetitive inspection for the flap pivot arm assemblies and a change to the Oxygen cylinder and pressure reducer task (Chapter 35—Oxygen) to remove the reference to the part numbers.

For the reason described above, this [Swiss] AD retains the requirements of FOCA

AD HB–2019–004 including its correction, which is superseded, and requires accomplishment of the actions specified in the ALS.

You may examine the MCAI in the AD docket at <https://www.regulations.gov> by searching for and locating Docket No. FAA–2020–0849.

The NPRM proposed to require revising the ALS of the existing AMM to introduce the new mandatory repetitive inspections for the flap pivot arm assemblies and for certain wing angle brackets, and to implement a change to the Oxygen cylinder and pressure reducer task item. The FAA is issuing this AD to address the unsafe condition on these products.

Comments

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

Conclusion

The FAA reviewed the relevant data and determined that air safety and the

public interest require 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, this AD is adopted as proposed in the NPRM.

Related Service Information Under 1 CFR Part 51

Pilatus Aircraft Ltd. has issued Section 05–10–10, “Lifed and Overhauled Components,” dated June 30, 2020, of Chapter 05, Time Limits/Maintenance Checks, of the Pilatus PC–7 Maintenance Manual. This document provides updated limitations, inspections, and procedures for the airworthiness limitations in chapter 5 of the existing AMM. This service information contains new mandatory repetitive inspections for the flap pivot arm assemblies and for the wing angle brackets on middle rib 23, and a change to the oxygen cylinder and pressure reducer task item to remove the reference to the part numbers.

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.

Differences Between This AD and the MCAI

The MCAI requires incorporating all of the updated Chapter 05–00–00 for the Swiss State of Design type certificate because they deem the complete chapter 5 as the mandatory ALS of the PC–7 AMM. This AD only requires Section 05–10–10, “Lifed and Overhauled Components,” dated June 30, 2020, of Chapter 05, Time Limits/Maintenance Checks, of the Pilatus PC–7 Maintenance Manual, because it is the only mandatory section of the ALS for the U.S. type certificate.

Costs of Compliance

The FAA estimates that this AD affects 18 airplanes of U.S. registry. The FAA estimates the following costs to comply with this AD:

ESTIMATED COSTS FOR REQUIRED ACTIONS

Labor cost	Parts cost	Cost per product	Cost on U.S. operators
1 work-hours × \$85 per hour = \$85	\$0	\$85	\$1,530

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 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:

2020–26–19 Pilatus Aircraft Ltd:
Amendment 39–21374; Docket No. FAA–2020–0849; Project Identifier MCAI–2020–01036–A.

(a) Effective Date

This airworthiness directive (AD) is effective March 29, 2021.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Pilatus Aircraft Ltd. Model PC–7 airplanes, all serial numbers, certificated in any category.

(d) Subject

Air Transport Association (ATA) of America Code 05, Time Limits/Maintenance Checks.

(e) Reason

This AD was prompted by the need to revise the Airworthiness Limitation section of the existing aircraft maintenance manual (AMM). The FAA is issuing this AD to revise the Airworthiness Limitations section of the existing AMM to introduce new mandatory repetitive inspections for the flap pivot arm assemblies and for the wing angle brackets on middle rib 23, and to implement a change to

the Oxygen cylinder and pressure reducer task item. The unsafe condition, if not addressed, could result in reduced structural integrity and system reliability of the airplane.

(f) Compliance

Unless already done, before further flight: Incorporate the revised Airworthiness Limitation section as specified in Section 05–10–10, “Lifed and Overhauled Components,” dated June 30, 2020, of Chapter 05, Time Limits/Maintenance Checks, of the Pilatus PC–7 Maintenance Manual, into the Airworthiness Limitations section of your FAA-accepted maintenance program (maintenance manual).

(g) No Alternative Actions or Intervals

After the Airworthiness Limitations section of the existing maintenance or inspection program has been revised as required by paragraph (f) of this AD, no alternative actions (e.g., inspections) or intervals may be used unless the actions or intervals are approved as an alternative method of compliance (AMOC) in accordance with the procedures specified in paragraph (h) of this AD.

(h) Other FAA AD Provisions

AMOCs: 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. Send information to Doug Rudolph, Aerospace Engineer, FAA, General Aviation & Rotorcraft Section, International Validation Branch, 901 Locust, Room 301, Kansas City, Missouri 64106; phone: (816) 329–4059; fax: (816) 329–4090; email: doug.rudolph@faa.gov. Before using any approved AMOC on any airplane to which the AMOC applies, notify your appropriate principal inspector (PI) in the FAA Flight Standards District Office (FSDO), or lacking a PI, your local FSDO.

(i) Related Information

(1) For more information about this AD, contact Doug Rudolph, Aerospace Engineer, FAA, General Aviation & Rotorcraft Section, International Validation Branch, 901 Locust, Room 301, Kansas City, Missouri 64106; phone: (816) 329–4059; fax: (816) 329–4090; email: doug.rudolph@faa.gov.

(2) Refer to Mandatory Continuing Airworthiness Information (MCAI) Federal Office for Civil Aviation AD HB–2020–007, dated July 23, 2020, for more information. This MCAI may be found in the AD docket at <https://www.regulations.gov> by searching for and locating Docket No. FAA–2020–0849.

(j) 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) Section 05–10–10, “Lifed and Overhauled Components,” dated June 30, 2020, of Chapter 05, Time Limits/

Maintenance Checks, of the Pilatus PC–7 Maintenance Manual.

(ii) [Reserved]

(3) For Pilatus Aircraft Ltd service information identified in this AD, contact Pilatus Aircraft Ltd., Customer Technical Support (MCC), P.O. Box 992, CH–6371, Stans, Switzerland; phone: +41 (0)41 619 67 74; fax: +41 (0)41 619 67 73; email: techsupport@pilatus-aircraft.com; website: <https://www.pilatus-aircraft.com/en>.

(4) You may view this service information at FAA, Airworthiness Products Section, Operational Safety Branch, 901 Locust, Kansas City, Missouri 64106. For information on the availability of this material at the FAA, call (816) 329–4148.

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

Issued on December 30, 2020.

Gaetano A. Sciortino,

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

[FR Doc. 2021–01783 Filed 2–19–21; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF STATE

22 CFR Part 41

[Public Notice: 10642]

RIN 1400–AE21

Visas: Eligibility for Diplomatic and Official Visas

AGENCY: Department of State.

ACTION: Final rule.

SUMMARY: This rule is promulgated for two reasons: To revise the definition of “equivalent of a diplomatic passport” to include non-national passports issued by a competent authority other than a foreign government and as designated by the Secretary of State; and to clarify the categories of nonimmigrants who may be eligible for a “diplomatic type” or “official type” visa, irrespective of the nonimmigrant visa classification. These technical revisions provide greater clarity and consistency with existing U.S. law and practices regarding the entities that the United States considers eligible to issue travel documents and the individuals who may qualify for “diplomatic type” or “official type” visas, irrespective of the nonimmigrant visa classification.

DATES: This rule is effective February 22, 2021.

FOR FURTHER INFORMATION CONTACT: Megan Herndon, Senior Regulatory

Coordinator, Office of Visa Services, Bureau of Consular Affairs, 600 19th Street NW, Washington, DC 20522, 202–485–8910, VisaRegs@state.gov.

SUPPLEMENTARY INFORMATION:

Equivalent of a Diplomatic Passport

This rule revises the definition of “equivalent of a diplomatic passport” at 22 CFR 41.26(a)(3) to include a travel document issued by a competent authority that does not issue diplomatic passports, and is designated by the Secretary as the equivalent of a diplomatic passport.

Section 101(a)(30) of the Immigration and Nationality Act (“INA”), 8 U.S.C. 1101(a)(30), defines a passport as “any travel document issued by [a] competent authority showing the bearer’s origin, identity, and nationality if any, which is valid for the admission of the bearer into a foreign country.” The Department of State (“Department”) has clarified its interpretation of this definition in regulations at 22 CFR 41.104(a), specifying that a passport is not limited to a national passport or to any single document.

The Department also defines what it considers to be the “equivalent of a diplomatic passport” in 22 CFR 41.26(a)(3). This definition was previously limited to a national passport issued by a competent authority of a foreign government, which generally does not issue diplomatic passports to its career diplomatic and consular officers. This definition, however, did not account for other travel documents that the Department encounters, including those issued by a competent authority other than a foreign government to indicate the holder’s status as an official or officer of the issuing entity. For example, an officer of the United Nations (“UN”) might present a UN Laissez-*Passer*, which meets the legal definition of a passport under INA section 101(a)(30), 8 U.S.C. 1101(a)(30), since UN member states will generally admit individuals bearing the Laissez-*Passer*. Under this rule, the Secretary can designate travel documents issued by a competent authority other than that of a foreign government as the equivalent of a diplomatic passport, when appropriate.

Categories of Individuals Who May Qualify for a “Diplomatic Type” or “Official Type” Visa, Irrespective of Visa Classification

The Department is also revising its regulations on “diplomatic type” and “official type” visas at 22 CFR 41.26 and 41.27, respectively, to ensure consistency with U.S. laws and policies

that have taken effect since the last substantive revisions in 1959.

Visa Classification Versus Visa Type

Visa classification is not the same as visa type. Section 101(a)(15) of the INA, 8 U.S.C. 1101(a)(15), defines classes of nonimmigrants based upon the purpose of travel. Implementing regulations at 22 CFR 41.12 assign classification symbols to these nonimmigrants to correspond to the INA 101(a)(15) subsection classification. The visa classification symbol is recorded in each nonimmigrant's visa record and printed on the front of every issued nonimmigrant visa as "Visa Class." For example, a visa issued to a nonimmigrant who is classifiable under INA section 101(a)(15)(A)(i), 8 U.S.C. 1101(a)(15)(A)(i), is assigned the visa classification symbol "A1."

The Department issues three "types" of nonimmigrant visas: Diplomatic, official, and regular. The visa type is recorded in each nonimmigrant's visa record and printed on the front of every issued nonimmigrant visa as "Visa Type." Section 101(a)(11) of the INA, 8 U.S.C. 1101(a)(11), defines "diplomatic visa" as a nonimmigrant visa bearing that title and issued to a nonimmigrant in accordance with such regulations as the Secretary of State may prescribe. Implementing regulations at 22 CFR 41.26(c) clarify that a nonimmigrant is eligible to receive a "diplomatic visa," irrespective of visa classification, if he or she is otherwise qualified and possesses a diplomatic passport, or its equivalent, and falls within the categories listed in 22 CFR 41.26(c). The INA does not define "official visa" but the term is referenced at INA section 222(h)(1)(A)(iv), 8 U.S.C. 1202(h)(1)(A)(iv), along with diplomatic visas. Implementing regulations at 22 CFR 41.27(c) clarify that a nonimmigrant is eligible to receive an "official visa," irrespective of visa classification, if he or she is otherwise qualified and falls within the categories listed in 22 CFR 41.27(c). A "regular visa" is defined in 22 CFR 41.101(e) as a nonimmigrant visa of any classification which does not bear the title "Diplomatic" or "Official" and clarifies that a nonimmigrant visa is issued as a regular visa, unless the alien falls within one of the classes entitled to a diplomatic or official visa. The appropriate visa type—diplomatic, official, or regular—is recorded in each nonimmigrant's visa record and designated on the front of every issued nonimmigrant visa as "Visa Type" with a "D," "O," or "R" symbol, respectively.

As described above, the terms "diplomatic visa" and "official visa" are

used in the INA and in Department regulations to refer to visa type, not visa classification. See INA 101(a)(11), 8 U.S.C. 1101(a)(11); see also 22 CFR 41.26–27. Thus, for instance, a nonimmigrant classifiable under INA 101(a)(15)(B) who has a diplomatic passport and falls within one of the categories specified in 22 CFR 41.26(c)(1) may be issued a diplomatic type B1/B2 visa if found eligible for the B1/B2 visa classification. However, the public often uses and understands the terms "diplomatic visa" and "official visa" to refer to visa classification, in particular the A1, A2, C3, G1, G2, G3, G4, NATO1, NATO2, NATO3, NATO4, NATO5, and NATO6 visa classifications. To avoid confusion, this rule uses the terms "diplomatic type," "official type," and "regular type" to clarify when a reference is to visa type and not to visa classification.

Changes to Categories of Individuals Who May Qualify for a "Diplomatic Type" or "Official Type" Visa, Irrespective of Visa Classification

Specifically, this rule will update terminology in 22 CFR 41.26(c)(1)(xii) from "officers of a diplomatic mission of a temporary character" to "officers of a foreign government." The rule will also update the terminology in 22 CFR 41.27(c)(1)(ix), 41.27(c)(1)(x), and 41.27(c)(1)(xi) from "clerical and custodial employees" to "administrative, service, and similar employees" and update the terminology referring to "diplomatic mission" to "foreign-government delegation." These updates reflect more consistent application of similar terminology used within the Department for government officials and employees traveling to the United States for official duties.

The rule also replaces 22 CFR 41.27(c)(1)(xiii), which previously provided that attendants, servants, and personal employees of foreign government officials and staff of international organizations (*i.e.*, nonimmigrants classifiable A3 and G5) were eligible to receive official type visas. Removing this category ensures that such applicants will be interviewed when applying for A3 or G5 nonimmigrant visas, a change consistent with the William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008, 8 U.S.C. 1375c(b)(1)(B). That law mandates visa interviews for these applicants, whereas 22 CFR 41.102(b)(2) otherwise permits waivers of the interview requirement for applicants for an official type visa. Such attendants, servants, and personal employees will continue to be classifiable as A3 or G5.

This rule also corrects previous errors in a number of other provisions in 22 CFR 41.26 and 41.27. Section 41.26(c)(2)(vi)(A) is updated to correct a typographical error. Sections 41.26(c)(1)(xiv), 41.26(c)(2)(xiii), and 41.27(c)(1)(xiii), the categories for immediate family, are updated to correct numbering of the subsections and to ensure consistency in language used to describe these categories. Section 41.27(c)(1)(i) is updated to correct an error in the referenced category of individuals to whom this section applies. Sections 41.27(c)(1)(ii) and (iii) are updated to clarify that these categories only cover aliens classifiable under INA sections 101(a)(15)(A)(i); 101(a)(15)(A)(ii); 101(a)(15)(G)(i); 101(a)(15)(G)(ii); 101(a)(15)(G)(iv); 8 U.S.C. 1101(a)(15)(A)(i); 1101(a)(15)(A)(ii); 1101(a)(15)(G)(i); 1101(a)(15)(G)(ii); 1101(a)(15)(G)(iv), and not to aliens classifiable under INA section 101(a)(15)(A)(iii) or INA section 101(a)(15)(G)(v); 8 U.S.C. 1101(a)(15)(A)(iii) or 8 U.S.C. 1101(a)(15)(G)(v). Aliens classifiable under INA section 101(a)(15)(G)(iii), 8 U.S.C. 1101(a)(15)(G)(iii), are covered in a new 22 CFR 41.27(c)(1)(iv). Because of the addition of a new 22 CFR 41.27(c)(1)(iv), the numbering for subsections following 22 CFR 41.27(c)(1)(iv) is updated.

Section 41.26(c) is also updated to include the requirement of presenting a diplomatic passport or its equivalent for all subsections of 22 CFR 41.26(c), consistent with 22 CFR 41.104(d), which requires that every applicant for a diplomatic type visa present a diplomatic passport or the equivalent thereof.

Regulatory Findings

Administrative Procedure Act

This rule is exempt from notice and comment under the foreign affairs exception of the Administrative Procedure Act ("APA"), 5 U.S.C. 553(a)(1). As the federal agency responsible for carrying out U.S. foreign policy, the Department has exclusive authority to determine when an applicant can be issued a diplomatic type or official type visa. As discussed above, INA section 101(a)(11) defines a "diplomatic visa" as "a nonimmigrant visa bearing that title and issued to a nonimmigrant in accordance with such regulations as the Secretary of State may prescribe." 8 U.S.C. 1101(a)(11). The Department exercises its statutory discretion when issuing diplomatic type visas. Issuance of diplomatic type visas is limited to a narrow category of individuals holding certain positions

within a foreign government, such as heads of states, cabinet ministers, ambassadors and public ministers. Further, the Department exercises its statutory discretion when issuing official type visas. For example, aliens who are not eligible to receive a diplomatic type visa and are classifiable under INA 101(a)(15)(A), 8 U.S.C. 1101(a)(15)(A), are eligible to receive official type visas. Aliens classifiable under INA 101(a)(15)(A), 8 U.S.C. 1101(a)(15)(A), must be “accepted” by the Secretary of State. 8 U.S.C. 1101(a)(15)(A)(i) and (ii). Thus, the Secretary’s discretion in promulgating regulations as they relate to issuing diplomatic type and official type visas “involve[s] . . . a foreign affairs function of the United States.” 5 U.S.C. 553(a)(1). In *Raoo v. Sullivan*, the court found that the Department properly exercised the foreign affairs exception under the APA when it “did not engage in formal rule-making” for the J-1 nonimmigrant visa two-year foreign residence requirement because the “the exchange visitor program—with its statutory mandate for international interaction through nonimmigrants—certainly relates to foreign affairs and diplomatic duties conferred upon the Secretary of State and the State Department.” 315 F.Supp.3d 34, 44 (D.D.C. 2018). This rule, which codifies Department policy regarding which aliens are treated as diplomats in the issuance of a visa, directly relates to the Department’s authority to carry out diplomatic duties and inherently involves the Secretary of State’s foreign affairs functions.

This rule clearly and directly impacts foreign affairs functions of the United States and “implicat[es] matters of diplomacy directly.” *City of N.Y. v. Permanent Mission of India to the U.N.*, 618 F.3d 172, 201 (2d Cir. 2010). The foreign-affairs exception covers this final rule, as it is “linked intimately with the Government’s overall political agenda concerning relations with another country.” *Am. Ass’n of Exporters & Importers-Textile & Apparel Grp. v. United States*, 751 F.2d 1239, 1249 (Fed. Cir. 1985). Opening this process to public comment would most directly affect a particular group of individuals, foreign government officials and officers of international organizations, who were eligible for diplomatic type or official type visas under the prior rule and who may still qualify for diplomatic type or official type visas, regardless of their purpose of travel or visa classification. Eligibility for such visa types, which is the subject of this rule, may determine whether the applicant is required to go to a U.S.

Embassy or Consulate for a visa interview, and potentially be eligible for certain courtesies at the port of entry to the United States. The rule discusses standards to be applied by consular officers, which will determine the type of visa (but not the visa classification) the visa applicant will receive. Because the above-referenced stakes are very significant to individuals who already receive any courtesies attached to the visa type, public comment on eligibility to receive a diplomatic type or official type visa would provoke immediate and strident response from the diplomatic community, in particular certain high ranking foreign government officials that may be important to the United States’ ability to achieve bilateral objectives. Accordingly, this situation is comparable to the situation in *Am. Ass’n of Exps. & Imps.—Textile & Apparel Grp. v. United States*, 751 F.2d 1239, 1249 (Fed. Cir. 1985) (ruling that stricter import restrictions would provoke immediate response from foreign manufacturers). Therefore, this regulation is exempt from 5 U.S.C. 553 because it involves a foreign affairs function of the United States.

Regulatory Flexibility Act/Executive Order 13272: Small Business

Because this final rule is exempt from notice and comment rulemaking under 5 U.S.C. 553, it is exempt from the regulatory flexibility analysis requirements set forth by the Regulatory Flexibility Act (5 U.S.C. 603 and 604). Nonetheless, consistent with the Regulatory Flexibility Act (5 U.S.C. 605(b)), the Department certifies that this rule will not have a significant economic impact on a substantial number of small entities. Therefore, a regulatory flexibility analysis under the Regulatory Flexibility Act, as amended, is not required.

Unfunded Mandates Reform Act of 1995

Section 202 of the Unfunded Mandates Reform Act of 1995, 2 U.S.C. 1532, generally requires agencies to prepare a statement before proposing any rule that may result in an annual expenditure of \$100 million or more by State, local, or tribal governments, or by the private sector. This rule will not result in any such expenditure, nor will it significantly or uniquely affect small governments.

Congressional Review Act

This rule is not a major rule as defined in 5 U.S.C. 804. The Department is aware of no monetary effect on the economy that would directly result from this rulemaking, nor will there be any major increase in costs or prices; or

adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States-based companies to compete with foreign-based companies in domestic and import markets.

Executive Orders 12866 and 13563

Executive Orders 13563 and 12866 direct agencies to assess 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, distributed impacts, and equity). This rule will not affect the economy by \$100 million or more annually. These Executive Orders stress the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. The Department has examined this rule in light of Executive Order 13563, and has determined that the rulemaking is consistent with the guidance therein. The Department has reviewed this rulemaking to ensure its consistency with the regulatory philosophy and principles set forth in Executive Order 12866. The Office of Information and Regulatory Affairs has determined that this rulemaking is a significant rulemaking under Executive Order 12866 and, consequently, reviewed this rulemaking.

The Department notes that this regulatory change only impacts the visa type (regular, diplomatic or official); it does not affect visa classification which is based on purpose of travel. Domestic workers of foreign government officials and international organization officers (aliens classifiable A-3 or G-5) are the only category of individuals being removed from the categories of individuals eligible for official type visas under this regulation. Such individuals do not typically have a diplomatic or official passport; they travel on regular passports. Although qualification for an official type visa may provide some courtesies such as exemption from visa fees, such courtesies are already attached to the A3 and G5 domestic worker visa classifications, so they are not losing a benefit. Moreover, even though official type visa applicants applying with an official passport may have their interview waived, the Trafficking Victims Protections Reauthorization Act of 2003 (TVPPRA), Public Law 108–193, requires an interview for all A3 and G5 nonimmigrants so such courtesy may not be extended to an A3 or G5 nonimmigrant.

Executive Orders 12372 and 13132: Federalism

This regulation will not have substantial direct effect on the States, on the relationship between the national government and the States, or the distribution of power and responsibilities among the various levels of government. The rule will not have federalism implications warranting the application of Executive Orders 12372 and 13132.

Executive Order 12988: Civil Justice Reform

The Department has reviewed the rule in light of sections 3(a) and 3(b)(2) of Executive Order 12988 to eliminate ambiguity, minimize litigation, establish clear legal standards, and reduce burden.

Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

The Department has determined that this rulemaking will not have tribal implications, will not impose substantial direct compliance costs on Indian tribal governments, and will not pre-empt tribal law. Accordingly, the requirements of Section 5 of Executive Order 13175 do not apply to this rulemaking.

Executive Order 13771

This rule is not subject to the requirements of Executive Order 13771, because its likely impact is de minimis.

Paperwork Reduction Act

This rule does not impose any new reporting or record-keeping requirements subject to the Paperwork Reduction Act, 44 U.S.C. Chapter 35.

List of Subjects in 22 CFR Part 41

Aliens, Foreign Officials, Immigration, Passports, and Visas.

Accordingly, for the reasons set forth in the preamble, 22 CFR part 41 is amended as follows:

PART 41 VISAS—DOCUMENTATION OF NONIMMIGRANTS UNDER THE IMMIGRATION AND NATIONALITY ACT, AS AMENDED

1. The authority citation for part 41 continues to read as follows:

Authority: 22 U.S.C. 2651a; 8 U.S.C. 1104; 8 U.S.C. 1323; Pub. L. 105–277, 112 Stat. 2681–795 through 2681–801; 8 U.S.C. 1185 note (section 7209 of Pub. L. 108–458, as amended by section 546 of Pub. L. 109–295).

2. Amend § 41.26 by:

a. Revising paragraphs (a)(3), (c) introductory text, (c)(1) introductory text, and (c)(1)(xii) and (xiv);

b. Removing the period at the end of paragraph (c)(1)(xvi) and adding “; or” in its place; and

c. Revising paragraphs (c)(2) introductory text, (c)(2)(vi)(A), and (c)(2)(xiii).

The revisions read as follows:

§ 41.26 Diplomatic visas.

(a) * * *

(3) Equivalent of a diplomatic passport means a passport that:

(i) Is issued by a competent authority that does not issue diplomatic passports and

(ii) Has been designated by the Secretary as the equivalent of a diplomatic passport.

* * * * *

(c) Classes of aliens eligible to receive diplomatic visas. A nonimmigrant alien who presents a diplomatic passport or its equivalent shall, if otherwise qualified, be eligible to receive a diplomatic visa if:

(1) The nonimmigrant alien is within one of the following categories, irrespective of the classification of the visa under § 41.12:

* * * * *

(xii) Officers of a foreign government proceeding to the United States on a temporary basis or through the United States in the performance of their official duties;

* * * * *

(xiv) Members of the immediate family of a principal alien who is within one of the classes described in paragraphs (c)(1)(i) through (xi) of this section;

* * * * *

(2) The alien is classifiable as a G–4 and is accompanying any of these officers:

(vi) * * *

(A) United Nations Children’s Fund;

* * * * *

(xiii) Members of the immediate family accompanying or following to join any principal nonimmigrant alien listed in paragraphs (c)(2)(i) through (xii) of this section.

* * * * *

3. Amend § 41.27 by revising paragraphs (c)(1)(i) through (xiii) to read as follows:

§ 41.27 Official visas.

* * * * *

(c) * * *

(1) * * *

(i) Aliens within a category described in § 41.26(c)(1) who are ineligible to receive a diplomatic visa because they are not in possession of a diplomatic passport or its equivalent;

(ii) Aliens classifiable under INA section 101(a)(15)(A)(i) or (ii), 8 U.S.C. 1101(a)(15)(A)(i) or (ii);

(iii) Aliens who are classifiable under INA section 101(a)(15)(G)(i), (ii), or (iv), 8 U.S.C. 1101(a)(15)(G)(i), (ii), or (iv);

(iv) Aliens who are classifiable under INA section 101(a)(15)(G)(iii), 8 U.S.C. 1101(a)(15)(G)(iii), as representatives of a foreign government traveling to an international organization so designated by Executive Order, where such foreign government is not a member of the international organization;

(v) Aliens classifiable under INA section 101(a)(15)(C), 8 U.S.C. 1101(a)(15)(C), as nonimmigrants described in INA section 212(d)(8), 8 U.S.C. 1182(d)(8);

(vi) Members and members-elect of national legislative bodies;

(vii) Justices of the lesser national and the highest state courts of a foreign country;

(viii) Officers and employees of national legislative bodies proceeding to or through the United States in the performance of their official duties;

(ix) Administrative, service, and similar employees attached to foreign-government delegations to, and employees of, international bodies of an official nature, other than international organizations so designated by Executive Order, proceeding to or through the United States in the performance of their official duties;

(x) Administrative, service, and similar employees of a foreign government proceeding to the United States on temporary duty or through the United States on a temporary basis in the performance of their official duties;

(xi) Administrative, service, and similar employees attached to foreign-government delegations proceeding to or from a specific international conference of an official nature;

(xii) Officers and employees of foreign governments recognized de jure by the United States who are stationed in foreign contiguous territories or adjacent islands;

(xiii) Members of the immediate family when accompanying or following to join a principal alien who is within one of the classes referred to or described in paragraphs (c)(1)(i) through (xii) of this section;

* * * * *

Zachary Parker,

Director, Office of Directives Management, Department of State.

[FR Doc. 2021–02552 Filed 2–19–21; 8:45 am]

BILLING CODE 4710–06–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT**24 CFR Part 3280**

[Docket No. FR-6149-C-03]

RIN 2502-AJ49

Manufactured Home Construction and Safety Standards; Correction**AGENCY:** Office of General Counsel, HUD.**ACTION:** Final rule; correction.

SUMMARY: HUD is correcting a final rule published in the **Federal Register** on January 12, 2021, entitled, “Manufactured Home Construction and Safety Standards”. The final rule amends the Federal Manufactured Home Construction and Safety Standards (the Construction and Safety Standards) by adopting the third set of recommendations made to HUD by the Manufactured Housing Consensus Committee (MHCC), as modified by HUD.

DATES: Effective March 15, 2021.**FOR FURTHER INFORMATION CONTACT:**

Aaron Santa Anna, Associate General Counsel for Legislation and Regulations, Department of Housing and Urban Development, 451 7th Street SW, Room 10238, Washington, DC 20410; telephone number 202-708-1793 (this is not a toll-free number). Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Information Relay Service at 800-877-8339 (this is a toll-free number).

SUPPLEMENTARY INFORMATION: On January 12, 2021 (86 FR 2496) (FR Doc. 2020-28227), HUD issued a final rule amending the Federal Manufactured Home Construction and Safety Standards (the Construction and Safety Standards) by adopting the third set of recommendations made to HUD by the Manufactured Housing Consensus Committee (MHCC), as modified by HUD. The adoption of the third set of recommendations revised the Manufactured Housing Construction and Safety Standards codified in title 24 of the Code of Federal Regulations, including those at part 3280. This notice corrects two inadvertent errors, one in an amendatory instruction, and one in the regulatory text.

In amendatory instruction 16, for 24 CFR part 3280, on page 2520 second column, the amendatory instruction states, “In § 3280.305, revise paragraphs (a), (e)(1), (g)(6), and (h)(5) to read as follows:” The amendatory instruction for paragraphs (a), (e)(1), and (g)(6) are

correct. However, paragraph (h) only contains paragraphs (1)-(4) and there is no paragraph (h)(5) to revise.

Second, § 3280.305, paragraph (h)(5) incorrectly states, “. . . provided that the requirements in paragraphs (h)(5)(i) through (v) of this section are met.” Paragraph (h)(5) contains only four paragraphs (i) through (iv).

Corrections

In the **Federal Register** of January 12, 2021, in FR Doc. 2020-28227, the following corrections are made:

§ 3280.305 [Corrected]

- 1. On page 2520, in the second column, in part 3280, in amendment 16, the instruction “In § 3280.305, revise paragraphs (a), (e)(1), (g)(6), and (h)(5) to read as follows:” is corrected to read, “In § 3280.305, revise paragraphs (a), (e)(1), and (g)(6) and add paragraph (h)(5) to read as follows:”.
- 2. On page 2520, in the third column, in § 3280.305, in paragraph (h)(5) introductory text, the paragraph reference “(h)(5)(i) through (v)” is corrected to read “(h)(5)(i) through (iv)”.

Aaron Santa Anna,

Associate General Counsel for Legislation and Regulations.

[FR Doc. 2021-03155 Filed 2-19-21; 8:45 am]

BILLING CODE 4210-67-P**DEPARTMENT OF THE TREASURY****Internal Revenue Service****26 CFR Part 1**

[TD 9935]

RIN 1545-BP02

Statutory Limitations on Like-Kind Exchanges; Correction**AGENCY:** Internal Revenue Service (IRS), Treasury.**ACTION:** Final regulations; correction.

SUMMARY: This document contains corrections to the final regulations (Treasury Decision 9935) that were published in the **Federal Register** on Wednesday, December 2, 2020. The final regulations providing guidance under section 1031 of the Internal Revenue Code (Code) to implement recent statutory changes to that section.

DATES: These corrections are effective on February 22, 2021 and is applicable on December 2, 2020.

FOR FURTHER INFORMATION CONTACT: Edward C. Schwartz at (202) 317-4740, or Suzanne R. Sinno at (202) 317-4718 (not toll-free numbers).

SUPPLEMENTARY INFORMATION:**Background**

The final regulations (TD 9935) that are the subject of this correction are issued under section 1031 of the Internal Revenue Code.

Need for Correction

As published the final regulations (TD 9935) contain errors that needs to be corrected.

Correction of Publication

Accordingly, the final regulations (TD 9935), that are the subject of FR Doc. FR Doc. 2020-26313, published on December 2, 2020 (85 FR 77365), are corrected to read as follows:

1. On page 77374, in the third column, the fifth line from the top of the first full paragraph; and the eighteenth line from the bottom of the paragraph, the language “exchange to” is corrected to read “exchanges to”; and “after” is corrected to read “before”.

2. On page 77375, in the first column, the tenth line from the top, and the fifth and sixth line from the bottom of the second full paragraph, the language “located (local law test).” is corrected to read “located.”; and “mines” is corrected to read “mines,” and “wells” is corrected to read “wells,”.

3. On page 77375, in the third column, the twenty-third line and the second sentence from the bottom of the first partial paragraph, the language “relative” is corrected to read “relative to”; and “Under the proposed regulations, the intangible asset, such as mineral extraction rights or timber cutting rights, that produces income other than for the use or occupancy of space and would not be considered real property.” is corrected to read “Under the proposed regulations, intangible assets, such as mineral extraction rights or timber cutting rights, that produce income other than for the use or occupancy of space would not be considered real property.”

4. On page 77376, in the second column, the eleventh line from the top of the first partial paragraph, the language “exchange” is corrected to read “exchanges”.

5. On page 77376, in the second column, the eighth line from the top of the third full paragraph, the language “numbers” is corrected to read “number”.

6. On page 77376, in the third column, the fourteenth and fifteenth lines from the bottom of the first partial paragraph, the language “numbers for those forms” is corrected to read “number for the form”.

7. On page 77376, in the third column, thirteenth line from the top of the first full paragraph, the language “control numbers” is corrected to read “control number”.

Crystal Pemberton,

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

Editorial note: This document was received at the Office of the Federal Register on January 12, 2021.

[FR Doc. 2021-00895 Filed 2-19-21; 8:45 am]

BILLING CODE 4830-01-P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 64

[CG Docket Nos. 13–24, 10–51, and 03–123; DA 20–1373; FRS 17295]

Comment Sought IP CTS Rates Reconsideration Petitions

AGENCY: Federal Communications Commission.

ACTION: Petitions for reconsideration.

SUMMARY: In this document, the Commission seeks comment on two petitions for reconsideration of the *IP CTS Compensation Order* (Petitions), in which the Commission set compensation rates for internet Protocol Captioned Telephone Service (IP CTS).

DATES: Oppositions to the Petitions are due March 9, 2021 and replies to an opposition are due March 19, 2021.

ADDRESSES: Oppositions and replies may be filed, identified by CG Docket Nos. 13–24, 10–51, and 03–123, using the Commission’s Electronic Comment Filing System (ECFS).

• *Electronic Filers:* Comments may be filed electronically using the internet by

accessing the ECFS: <https://www.fcc.gov/ecfs/filings>.

• *Paper Filers:* Parties who choose to file by paper must file an original and one copy of each filing. If more than one docket or rulemaking number appears in the caption of this proceeding, filers must submit two additional copies for each additional docket or rulemaking number.

○ Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail. All filings must be addressed to the Commission’s Secretary, Office of the Secretary, Federal Communications Commission.

○ All hand-delivered or messenger-delivered paper filings for the Commission’s Secretary must be delivered to Secretary’s Office at 9050 Junction Drive, Annapolis Junction, MD 20701. The filing hours are 8:00 a.m. to 4:00 p.m., Monday through Friday. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes and boxes must be disposed of before entering the building.

○ Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9050 Junction Drive, Annapolis Junction, MD 20701.

○ U.S. Postal Service first-class, Express, and Priority mail must be addressed to 45 L Street NE, Washington DC 20554.

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

SUPPLEMENTARY INFORMATION: This is a summary of the Commission’s *Public Notice*, in CG Docket Nos. 13–24, 10–51, and 03–123, DA 20–1373, released on November 19, 2020. The full text of the Petitions can be accessed online via the

Commission’s Electronic Comment Filing System at: <http://apps.fcc.gov/ecfs/>. To request materials in accessible formats for people with disabilities (Braille, large print, electronic files, audio format), send an email to fcc504@fcc.gov or call the Consumer and Governmental Affairs Bureau at 202–418–0530.

Synopsis

1. The Commission seeks comment on two petitions for reconsideration of the *IP CTS Compensation Order*, published at 85 FR 64971, October 14, 2020, in which the Commission set compensation rates for IP CTS of \$1.42 per minute, effective December 1, 2020, through June 30, 2021, and \$1.30 per minute, effective July 1, 2021, through June 30, 2022.

2. IDT Telecom, Inc. (IDT), a contributor to the Telecommunications Relay Services (TRS) Fund, contends that, because the Commission reduced the IP CTS compensation rate for the current 2020–21 TRS Fund Year, the Commission also should have reduced the applicable Fund contribution factor.

3. T-Mobile USA, Inc., on behalf of Sprint Communications Company L.P. (Sprint Accessibility), an IP CTS provider, asserts the Commission did not have a reasoned basis for adopting a single cost-based rate rather than a tiered rate structure and did not adequately consider certain costs.

Federal Communications Commission.

Robert Garza,

Legal Advisor, Consumer and Governmental Affairs Bureau.

Editorial Note: This document was received at the Office of the Federal Register on January 19, 2021.

[FR Doc. 2021-01580 Filed 2-19-21; 8:45 am]

BILLING CODE 6712-01-P

Proposed Rules

Federal Register

Vol. 86, No. 33

Monday, February 22, 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 AGRICULTURE

Agricultural Marketing Service

7 CFR Part 1280

[Document No. AMS-LP-19-0093]

RIN 0581-AC06

Lamb Promotion, Research, and Information Order; Activity Changes; Comment Period Reopened

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule; reopening of comment period.

SUMMARY: The Agricultural Marketing Service (AMS) is providing an additional 30 days for public comments on the proposed rule that would amend the Lamb Promotion, Research, and Information Order (Order). Reopening the comment period gives interested persons an additional opportunity to comment on the proposal. Comments are solicited from all stakeholders, notably those who would be impacted by the proposed amendments.

DATES: The comment period for the proposed rule published on October 5, 2020, at 85 FR 62617, is reopened. Comments must be received by March 24, 2021.

ADDRESSES: Comments should be posted online at www.regulations.gov. Comments received will be posted without change, including any personal information provided. All comments should reference the docket number AMS-LP-19-0093, the date of publication, and the page number of this issue of the **Federal Register**. Comments may also be sent to Jason Julian, Agricultural Marketing Specialist; Research and Promotion Division; Livestock and Poultry Program, AMS, USDA; Room 2610-S, STOP 0251, 1400 Independence Avenue SW, Washington, DC 20250-0251. Comments will be made available for public inspection at the above address during regular business hours or via the internet at www.regulations.gov.

FOR FURTHER INFORMATION CONTACT:

Jason Julian, Agricultural Marketing Specialist, Research and Promotion Division, Livestock and Poultry Program, AMS, USDA; telephone: (202) 731-2149; fax: (202) 720-1125; or email: jason.julian@usda.gov.

SUPPLEMENTARY INFORMATION:

Background and Proposed Action

AMS proposed revisions to the assessment collection procedures that would require market agencies to collect the full assessment on sales of live lambs, including the first-handler assessment portion, for remittance to the Board. The proposed assessment collection change would only apply to lambs sold through market agencies (e.g., commission merchant, auction market, or livestock market). Other modes of sale, such as traditional markets (e.g., first handler purchases from a producer or feeder, independent of a market agency, direct sales) would continue to have assessments remitted through the pass-through collection process.

This document notifies the public of the reopening of the comment period from February 22, 2021 to March 24, 2021. Comments previously submitted during the initial 60-day comment period [October 5, 2020, through December 4, 2020] need not be resubmitted, as these comments are already incorporated into the public record and will be considered in the final rule.

Public Comment Requested

AMS received 11 comments from stakeholders during the initial sixty-day comment period. These comments represent the perspectives of various organizations and individuals within the stakeholder community and provided AMS additional context for decision making. AMS is reopening the comment period to encourage additional input on a topic identified by one commenter during the initial comment period.

The commenter requested AMS consider allowing flexibility in the remittance of collected assessments by lower-volume or seasonal market agencies. The commenter suggested that requiring smaller market agencies to remit assessments every month, regardless of their sales volume, could be burdensome for those entities with

very small volumes. The commenter asked AMS to consider additional flexibility for small market agencies by allowing them to remit accumulated assessments on a quarterly or annual basis. The proposed rule would require that remittances occur by the 15th day of the month following the month in which lambs were purchased for slaughter or export, regardless of sales volume for that month. The commenter suggested such flexibilities for small market agencies could be based on the average head of lamb sold annually, allowing markets below a specific threshold to remit on a quarterly or annual basis.

AMS seeks additional information from stakeholders to consider this type of flexibility. AMS seeks comments on the following questions:

1. What level or threshold should AMS consider as a low-volume market agency that might be eligible for additional flexibility?
2. Approximately how many market agencies would fit into such a category?
3. How would this type of flexibility reduce regulatory burden for those market agencies?

AMS seeks input on other appropriate thresholds—such as monthly or quarterly sales volume—to identify market agencies that might be eligible for regulatory flexibility regarding assessment remittance under the amended regulations. Any comments should be supported by data that is clearly quantified and explained.

Bruce Summers,

Administrator, Agricultural Marketing Service.

[FR Doc. 2021-03470 Filed 2-19-21; 8:45 am]

BILLING CODE P

NUCLEAR REGULATORY COMMISSION

10 CFR Parts 15, 170 and 171

[NRC-2018-0292]

RIN 3150-AK24

Revision of Fee Schedules; Fee Recovery for Fiscal Year 2021

AGENCY: Nuclear Regulatory Commission.

ACTION: Proposed rule.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is proposing to

amend the licensing, inspection, special project, and annual fees charged to its applicants and licensees. These proposed amendments are necessary to implement the Nuclear Energy Innovation and Modernization Act (NEIMA), which, starting in fiscal year (FY) 2021, requires the NRC to recover, to the maximum extent practicable, approximately 100 percent of its annual budget less certain amounts excluded from this fee-recovery requirement. In addition, the NRC is also proposing improvements associated with fee invoicing to implement provisions in NEIMA.

DATES: Submit comments by March 24, 2021. Comments received after this date will be considered if it is practical to do so, but the NRC is able to ensure consideration only for comments received before this date. Because NEIMA requires the NRC to collect fees for FY 2021 by September 30, 2021, the NRC must finalize any revisions to its fee schedules promptly, and thus is unable to grant any extension request of the comment period.

ADDRESSES: You may submit comments by any of the following methods (unless this document describes a different method for submitting comments on a specific subject):

- *Federal Rulemaking Website:* Go to <https://www.regulations.gov> and search for Docket ID NRC–2018–0292. Address questions about NRC dockets to Dawn Forder; telephone: 301–415–3407; email: Dawn.Forder@nrc.gov. For technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this proposed rule.

- *Email comments to:* Rulemaking.Comments@nrc.gov. If you do not receive an automatic email reply confirming receipt, then contact us at 301–415–1677.

- *Mail comments to:* Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, ATTN: Rulemakings and Adjudications Staff.

For additional direction on obtaining information and submitting comments, see “Obtaining Information and Submitting Comments” in the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: Anthony Rossi, Office of the Chief Financial Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, telephone: 301–415–7341; email: Anthony.Rossi@nrc.gov.

SUPPLEMENTARY INFORMATION:

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I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID NRC–2018–0292 when contacting the NRC about the availability of information for this action. You may obtain publicly-available information related to this action by any of the following methods:

- *Federal Rulemaking Website:* Go to <https://www.regulations.gov> and search for Docket ID NRC–2018–0292.

- *NRC’s Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly-available documents online in the ADAMS Public Documents collection at <https://www.nrc.gov/reading-rm/adams.html>. To begin the search, select “Begin Web-based ADAMS Search.” For problems with ADAMS, please contact the NRC’s Public Document Room (PDR) reference staff at 1–800–397–4209 or 301–415–4737, or by email to pdr.resource@nrc.gov. The ADAMS accession number for each document referenced in this document (if that document is available in ADAMS) is provided the first time that a document is referenced. For the convenience of the reader, the ADAMS accession numbers are also provided in a table in the “Availability of Documents” section of this document.

- *Attention:* The Public Document Room (PDR), where you may examine and order copies of public documents, is currently closed. You may submit your request to PDR staff via email at pdr.resource@nrc.gov or call 1–800–397–4209 between 8:00 a.m. and 4:00 p.m. (EST), Monday through Friday, except Federal holidays.

B. Submitting Comments

Please include Docket ID NRC–2018–0292 in the subject line of your comment submission in order to ensure that the NRC is able to make your comment submission publicly available in this docket.

The NRC cautions you not to include identifying or contact information that

you do not want to be publicly disclosed in your comment submission. The NRC posts all comment submissions at <https://www.regulations.gov> as well as entering the comment submissions into ADAMS. The NRC does not routinely edit comment submissions to remove identifying or contact information.

If you are requesting or aggregating comments from other persons for submission to the NRC, then you should inform those persons not to include identifying or contact information that they do not want to be publicly disclosed in their comment submissions. Your request should state that the NRC does not routinely edit comment submissions to remove such information before making the comment submissions available to the public or entering the comment submissions into ADAMS.

II. Background Statutory Authority

A. Statutory Authority

Revised Fee-Recovery Framework for FY 2021 and Subsequent Fiscal Years

The NRC is proposing to amend the licensing, inspection, special project, and annual fees charged to its applicants and licensees. These proposed amendments are necessary to implement Public Law 115–439, NEIMA (42 U.S.C. 2215), which the President signed into law on January 14, 2019. The NEIMA fee-related changes, effective October 1, 2020, include (1) repealing the prior fee-recovery framework and replacing it with a revised framework and (2) requirements to improve the invoice accuracy for service fees.

Effective October 1, 2020, NEIMA repealed Section 6101 of the Omnibus Budget Reconciliation Act of 1990, as amended (OBRA–90) (42 U.S.C. 2214) and put in place a revised fee-recovery framework for FY 2021 and subsequent fiscal years, requiring the NRC to recover, to the maximum extent practicable, approximately 100 percent of its total budget authority for the fiscal year, less the budget authority for excluded activities. For FYs 2005 through 2020, OBRA–90 required the NRC to recover approximately 90 percent of its budget authority for the fiscal year, less amounts for the activities excluded from fee recovery under OBRA–90 or other legislation, through fees. The 10 percent of the remaining budget authority not recovered through fees was historically referred to as fee-relief activities. In this proposed rule, the NRC would establish a revised fee-recovery framework, which would eliminate the 10 percent limit on

fee-relief activities. Accordingly, the NRC would no longer provide a fee-relief credit (when the amount budgeted for fee-relief activities is less than the 10 percent threshold, which would have decreased annual fees for licensees) or assess a fee-relief surcharge (when the amount budgeted for fee-relief activities is greater than the 10 percent threshold, which would have increased annual fees for licensees) as part of the calculation of annual fees for each licensee fee class.

In FY 2021, the NRC's fee regulations are primarily governed by two laws: (1) The Independent Offices Appropriation Act, 1952 (IOAA) (31 U.S.C. 9701), and (2) NEIMA (42 U.S.C. 2215). The IOAA authorizes and encourages Federal agencies to recover—to the fullest extent possible—costs attributable to services provided to identifiable recipients. Under NEIMA, the NRC must recover, to the maximum extent practicable, approximately 100 percent of its annual budget, less the budget authority for excluded activities. Under Section 102(b)(1)(B) of NEIMA, “excluded activities” include any fee-relief activity as identified by the Commission, generic homeland security activities, waste incidental to reprocessing activities, Nuclear Waste Fund activities, advanced reactor regulatory infrastructure activities, Inspector General services for the Defense Nuclear Facilities Safety Board, research and development at universities in areas relevant to the NRC's mission, and a nuclear science and engineering grant program.

In FY 2021, the fee-relief activities identified by the Commission are consistent with prior final fee rules and include Agreement State oversight, regulatory support to Agreement States, medical isotope production infrastructure, fee exemptions for non-profit educational institutions, costs not recovered from small entities under 10 CFR 171.16(c), generic decommissioning/reclamation activities, the NRC's uranium recovery program and unregistered general licenses, potential U.S. Department of Defense Program Memorandum of Understanding activities (Military Radium-226), and non-military radium sites. In addition, for FY 2021, the Commission identified international activities, not including the resources for import and export licensing, as fee-relief activities to be excluded from the fee-recovery requirement.

Under NEIMA, the NRC must use its IOAA authority first to collect service fees for NRC work that provides specific benefits to identifiable recipients (such as licensing work, inspections, and

special projects). The NRC's regulations in part 170 of title 10 of the *Code of Federal Regulations* (10 CFR), “Fees for Facilities, Materials, Import and Export Licenses, and Other Regulatory Services Under the Atomic Energy Act of 1954, as Amended,” explain how the agency collects service fees from specific beneficiaries. Because the NRC's fee recovery under the IOAA (10 CFR part 170) will not equal 100 percent of the agency's budget authority for the fiscal year, the NRC also assesses “annual fees” under 10 CFR part 171, “Annual Fees for Reactor Licenses and Fuel Cycle Licenses and Materials Licenses, Including Holders of Certificates of Compliance, Registrations, and Quality Assurance Program Approvals and Government Agencies Licensed by the NRC,” to recover the remaining amount necessary to comply with NEIMA.

In addition, Section 102(b)(3)(B)(i) of NEIMA establishes a new cap for the annual fees charged to operating reactor licensees; under this provision, the annual fee for an operating reactor licensee, to the maximum extent practicable, shall not exceed the annual fee amount per operating reactor licensee established in the FY 2015 final fee rule (80 FR 37432; June 30, 2015), adjusted for inflation (see Section III, Discussion, “FY 2021 Fee Collection—Revised Annual Fees,” of this proposed rule).

B. Accurate Invoicing

Section 102(d) of NEIMA requires three sets of actions related to NRC invoices for service fees assessed under 10 CFR part 170. First, as stated in Section 102(d)(1) of NEIMA, the NRC must “ensure appropriate review and approval prior to the issuance of invoices” for service fees. Second, as stated in Section 102(d)(2) of NEIMA, the NRC must “develop and implement processes to audit invoices [for 10 CFR part 170 service fees] to ensure accuracy, transparency, and fairness.” Third, as stated in Section 102(d)(3) of NEIMA, the NRC is required to “modify regulations to ensure fair and appropriate processes to provide licensees and applicants an opportunity to efficiently dispute or otherwise seek review and correction of errors in invoices” for service fees.

The NRC developed and implemented process improvements to ensure accurate invoicing for the first two actions. First, in July 2019, the NRC implemented a new agencywide process to standardize the validation of fees, which fully satisfies Section 102(d)(1) and partially addresses Section 102(d)(2) of NEIMA. The new standardized process improved

accountability and oversight within the NRC to ensure that fee billing data is correct before appearing on a licensee's invoice. Standardizing the fee validation process defines roles and responsibilities for performing fee billing validation and certification; this standardization process also improves accountability and internal controls by adding management oversight to improve the accuracy of fee billing data. The NRC's new process will lead to improved internal and external auditing of service fee invoices to ensure accuracy, transparency, and fairness of invoices. The process requires offices with fee billable charges to regularly review and certify hours and costs to validate the charges before the NRC sends a bill for service fees. On an annual basis, external financial statement auditors will conduct an audit of a sample of invoices to determine whether the NRC is accurately invoicing in accordance with the NRC's fee schedules. Therefore, NRC's invoices will be reviewed and audited by both internal and external parties.

The second NEIMA accurate invoicing action also concerns the transparency and fairness of the overall billing process. The NRC is firmly committed to the application of fairness and equity in the assessment of fees. All 10 CFR part 170 service fees are reassessed and published in the **Federal Register** on a yearly basis. In January 2018, the NRC redesigned its invoices to add clarity and transparency for its stakeholders; new features included an invoice legend of NRC acronyms and the names of individual NRC staff and/or contractor company, if applicable, who had performed the work associated with the charges were added. In addition, the NRC's staff hours and contractor costs were listed separately on invoices so the recipient could view the subtotals for the two different categories of costs. Finally, the NRC implemented a new data structure to more effectively account for and track all billable work at the project level. The structure included a data element called an Enterprise Project Identifier (EPID), which provides useful details regarding the type of project or work that is being billed. Inspection report numbers were converted to EPIDs to provide more information, and descriptions of inspection activities were added to the invoice. Using this data structure enabled the NRC's licensees and other persons assessed service fees to identify how many hours are being expended on each of the various activities within a project. To further these efforts, the NRC standardized its Cost Activity Codes

(CACs) for all agency activities to clearly provide licensees with consistent descriptions of the work being performed across licensing actions, inspections, and over multiple dockets. Invoices for service fees are now presented in a more useful and readable manner and hours and costs are no longer commingled. As a result, the NRC's invoices provide stakeholders greater transparency regarding fees.

In addition, in October 2019, the NRC released an electronic billing (eBilling) system. This public facing, web-based application provides persons assessed service fees, including licensees, immediate delivery of NRC invoices, customizable email notifications, the capability to view and analyze invoice details, and access to the U.S. Department of the Treasury systems to pay invoices. The eBilling application

provides persons assessed service fees, including licensees increased billing process transparency and has increased applicant and licensee confidence in the assessed fees and charges.

To address the third action, the NRC is proposing a policy change to modify the regulations in 10 CFR chapter I to provide a standard process for licensees and applicants to efficiently dispute or otherwise seek review and correction of errors in invoices for services fees (see Section III, Discussion, "FY2021—Policy Changes," of this proposed rule).

III. Discussion

FY 2021 Fee Collection—Overview

The NRC is issuing this FY 2021 proposed fee rule based on the Consolidated Appropriations Act, 2021 (the enacted budget). The proposed fee

rule reflects a total budget authority in the amount of \$844.4 million, a decrease of \$11.2 million from FY 2020. As explained previously, certain portions of the NRC's total budget authority for the fiscal year are excluded from NEIMA's fee-recovery requirement under Section 102(b)(1)(B) of NEIMA. Based on the FY 2021 enacted budget, these exclusions total \$123.0 million, consisting of \$91.2 million for fee-relief activities; \$17.7 million for advanced reactor regulatory infrastructure activities; \$11.7 million for generic homeland security activities; \$1.2 million for waste incidental to reprocessing activities; and \$1.2 million for Inspector General services for the Defense Nuclear Facilities Safety Board. Table I summarizes the excluded activities for the FY 2021 proposed rule.

TABLE I—EXCLUDED ACTIVITIES
[Dollars in millions]

	FY 2021 proposed rule
Fee-Relief Activities:	
International activities (not including the resources for import and export licensing)	24.7
Agreement State oversight	10.4
Medical isotope production infrastructure	5.9
Fee exemption for nonprofit educational institutions	9.3
Costs not recovered from small entities under 10 CFR 171.16(c)	7.7
Regulatory support to Agreement States	12.3
Generic decommissioning/reclamation activities (not related to the power reactor and spent fuel storage fee classes)	16.1
Uranium recovery program and unregistered general licensees	3.6
Potential Department of Defense remediation program Memorandum of Understanding activities	1.0
Non-military radium sites	0.2
Subtotal Fee-Relief Activities	91.2
Activities under Section 102(b)(1)(B)(ii) of NEIMA (Generic Homeland Security activities, Waste Incidental to Reprocessing activities, and the Defense Nuclear Facilities Safety Board)	14.1
Advanced reactor regulatory infrastructure activities	17.7
Total Excluded Activities	123.0

After accounting for the exclusions from the fee-recovery requirement and net billing adjustments (i.e., for FY 2021 invoices that the NRC estimates will not be paid during the fiscal year, less payments received in FY 2021 for prior year invoices and current year collections made for the termination of one operating power reactor), the NRC must recover approximately \$708.8 million in fees in FY 2021. Of this amount, the NRC estimates that \$185.9 million will be recovered through 10 CFR part 170 service fees and approximately \$522.9 million will be

recovered through 10 CFR part 171 annual fees. Table II summarizes the fee-recovery amounts for the FY 2021 proposed fee rule using the enacted budget, and taking into account the budget authority for excluded activities and net billing adjustments. For all information presented in the following tables, individual values may not sum to totals due to rounding. Please see the work papers (ADAMS Accession No. ML20346A173) for actual amounts.

In FY 2021, the explanatory statement associated with the Consolidated Appropriations Act, 2021, also includes

direction for the NRC to use \$35.0 million in prior-year unobligated carryover funds, including \$16.0 million to fund the Integrated University Program for FY 2021. The NRC does not assess fees in the current fiscal year for any carryover funds because, consistent with the requirements of NEIMA, fees are calculated based on the budget authority enacted for the current fiscal year and fees were already assessed in the fiscal year in which the carryover funds were appropriated.

TABLE II—BUDGET AND FEE RECOVERY AMOUNTS ¹
 [Dollars in millions]

	FY 2021 proposed rule
Total Budget Authority	\$844.4
Less Budget Authority for Excluded Activities:	- 123.0
Balance	721.4
Fee Recovery Percent	100
Total Amount to be Recovered:	721.4
Less Estimated Amount to be Recovered through 10 CFR part 170 Fees	- 185.9
Estimated Amount to be Recovered through 10 CFR part 171 Fees	535.5
10 CFR part 171 Billing Adjustments:	
Unpaid Current Year Invoices (estimated)	3.0
Less Current Year Collections from a Terminated Reactor—Indian Point Nuclear Generating, Unit 2 in FY 2020 and Indian Point Nuclear Generating, Unit 3 in FY 2021	- 2.7
Less Payments Received in Current Year for Previous Year Invoices (estimated)	- 12.9
Adjusted Amount to be Recovered through 10 CFR parts 170 and 171 Fees	708.8
Adjusted 10 CFR part 171 Annual Fee Collections Required	522.9

FY 2021 Fee Collection—Professional Hourly Rate

The NRC uses a professional hourly rate to assess fees under 10 CFR part 170 for specific services it provides. The professional hourly rate also helps determine flat fees (which are used for the review of certain types of license applications). This rate is applicable to all activities for which fees are assessed under §§ 170.21 and 170.31.

The NRC’s professional hourly rate is derived by adding budgeted resources for: (1) Mission-direct program salaries and benefits, (2) mission-indirect program support, and (3) agency support (corporate support and the Inspector General). The NRC then subtracts certain offsetting receipts and divides this total by the mission-direct full-time equivalent (FTE) converted to hours (the mission-direct FTE converted

to hours is the product of the mission-direct FTE multiplied by the estimated annual mission-direct FTE productive hours). The only budgeted resources excluded from the professional hourly rate are those for mission-direct contract resources, which are generally billed to licensees separately. The following shows the professional hourly rate calculation:

$$\text{Professional Hourly Rate} = \frac{\text{Budgeted Resources}}{\text{Mission-Direct FTE Converted to Hours}} = \frac{\$732.2 \text{ million}}{1,684 \times 1,510} = \$288$$

For FY 2021, the NRC is proposing to increase the professional hourly rate from \$279 to \$288. The 3.2 percent increase in the FY 2021 professional hourly rate is primarily due to a 2.1 percent increase in budgetary resources of approximately \$15.0 million. The increase in budgetary resources is, in turn, primarily due to an increase in salaries and benefits to support Federal pay raises for NRC employees. The anticipated decline in the number of mission-direct FTE compared to FY 2020 also contributed to the increase in the professional hourly rate. The hourly rate is inversely related to the mission-

direct FTE amount; therefore, as the number of mission-direct FTE decrease the hourly rate can increase. The number of mission-direct FTE is expected to decline by 17, primarily due to: (1) The completion of probabilistic risk assessment reviews related to lessons learned from the accident at Fukushima Dai-ichi in Japan; (2) the closure of Duane Arnold Energy Center (Duane Arnold); and (3) the reduced workload associated with significance determinations, operating experience evaluations, and generic communications development.

The FY 2021 estimate for annual mission-direct FTE productive hours is 1,510 hours, which is unchanged from FY 2020. This estimate, also referred to as the productive hours assumption, reflects the average number of hours that a mission-direct employee spends on mission-direct work in a given year. This estimate therefore excludes hours charged to annual leave, sick leave, holidays, training, and general administrative tasks. Table III shows the professional hourly rate calculation methodology. The FY 2020 amounts are provided for comparison purposes.

¹ For each table, numbers may not add due to rounding.

TABLE III—PROFESSIONAL HOURLY RATE CALCULATION
[Dollars in millions, except as noted]

	FY 2020 final rule	FY 2021 proposed rule
Mission-Direct Program Salaries & Benefits	\$314.6	\$335.3
Mission-Indirect Program Support	\$110.8	\$113.2
Agency Support (Corporate Support and the IG)	\$291.5	\$283.7
Subtotal	\$716.9	\$732.2
Less Offsetting Receipts ²	\$0.0	\$0.0
Total Budgeted Resources Included in Professional Hourly Rate	\$716.9	\$732.2
Mission-Direct FTE (Whole numbers)	1,701	1,684
Annual Mission-Direct FTE Productive Hours (Whole numbers)	1,510	1,510
Mission-Direct FTE Converted to Hours (Mission-Direct FTE multiplied by Annual Mission-Direct FTE Productive Hours) (In Millions)	2,568,510	2,542,840
Professional Hourly Rate (Total Budgeted Resources Included in Professional Hourly Rate Divided by Mission-Direct FTE Converted to Hours) (Whole Numbers)	\$279	\$288

FY 2021 Fee Collection—Flat Application Fee Changes

The NRC proposes to amend the flat application fees it charges in its schedule of fees in §§ 170.21 and 170.31 to reflect the revised professional hourly rate of \$288. The NRC charges these fees to applicants for materials licenses and other regulatory services, as well as to holders of materials licenses. The NRC calculates these flat fees by multiplying the average professional staff hours needed to process the licensing actions by the professional hourly rate for FY 2021. As part of its calculations, the NRC analyzes the actual hours spent performing licensing actions and estimates the five-year average of professional staff hours that are needed to process licensing actions as part of its biennial review of fees; these actions are required by Section 205(a) of the Chief Financial Officers Act of 1990 (31 U.S.C. 902(a)(8)). The NRC performed this review in FY 2021 and will perform this review again in FY 2023. The biennial review adjustments and the higher professional hourly rate of \$288 are the primary reasons for the increase in application fees (see the work papers).

In order to simplify billing, the NRC rounds these flat fees to a minimal

degree. Specifically, the NRC rounds these flat fees (up or down) in such a way that ensures both convenience for its stakeholders and that any rounding effects are minimal. Accordingly, fees under \$1,000 are rounded to the nearest \$10, fees between \$1,000 and \$100,000 are rounded to the nearest \$100, and fees greater than \$100,000 are rounded to the nearest \$1,000.

The proposed licensing flat fees are applicable for import and export licensing actions (see fee categories K.1. through K.5. of § 170.21 and fee categories 15.A. through 15.R. of § 170.31), as well as certain materials licensing actions (see fee categories 1.C. through 1.D., 2.B. through 2.F., 3.A. through 3.S., 4.B. through 5.A., 6.A. through 9.D., 10.B., 15.A. through 15.L., 15.R., and 16 of § 170.31). Applications filed on or after the effective date of the FY 2021 final fee rule will be subject to the revised fees in the final rule.

FY 2021 Fee Collection—Low-Level Waste Surcharge

As in prior years, the NRC proposes to assess a generic low-level waste (LLW) surcharge of \$3.4 million. Disposal of LLW occurs at commercially operated LLW disposal facilities that are

licensed by either the NRC or an Agreement State. Four existing LLW disposal facilities in the United States accept various types of LLW. All are located in Agreement States and, therefore, are regulated by an Agreement State, rather than the NRC. The NRC proposes to allocate this surcharge to its licensees based on data available in the U.S. Department of Energy’s (DOE) Manifest Information Management System. This database contains information on total LLW volumes disposed of by four generator classes: Academic, industrial, medical, and utility. The ratio of waste volumes disposed of by these generator classes to total LLW volumes disposed over a period of time is used to estimate the portion of this surcharge that will be allocated to the power reactors, fuel facilities, and the materials users fee classes. The materials users fee class portion is adjusted to account for the large percentage of materials licensees that are licensed by the Agreement States rather than the NRC.

Table IV shows the allocation of the LLW surcharge and its proposed allocation across the various fee classes.

TABLE IV—ALLOCATION OF LLW SURCHARGE FY 2021
[Dollars in millions]

	LLW surcharge	
	Percent	\$
Operating Power Reactors	87.4	2.938
Spent Fuel Storage/Reactor Decommissioning	0.0	0.000
Non-Power Production or Utilization Facilities	0.0	0.000

² The fees collected by the NRC for Freedom of Information Act (FOIA) services and indemnity fees (financial protection required of all licensees for public liability claims at 10 CFR part 140) are subtracted from the budgeted resources amount when calculating the 10 CFR part 170 professional

hourly rate, per the guidance in the Office of Management and Budget (OMB) Circular A–25, *User Charges*. The budgeted resources for FOIA activities are allocated under the product for Information Services within the Corporate Support business line. The budgeted resources for

indemnity activities are allocated under the Licensing Actions and Research and Test Reactors products within the Operating Reactors business line.

TABLE IV—ALLOCATION OF LLW SURCHARGE FY 2021—Continued
[Dollars in millions]

	LLW surcharge	
	Percent	\$
Fuel Facilities	10.0	0.336
Materials Users	2.6	0.087
Transportation	0.0	0.000
Rare Earth Facilities	0.0	0.000
Uranium Recovery	0.0	0.000
Total	100.0	3.361

FY 2021 Fee Collection—Revised Annual Fees

In accordance with SECY-05-0164, “Annual Fee Calculation Method” (ADAMS Accession No. ML052580332), the NRC rebaselines its annual fees every year. “Rebaselining” entails analyzing the budget in detail and then allocating the budgeted costs to various classes or subclasses of licensees. It also includes updating the number of NRC

licensees in its fee calculation methodology.

The NRC proposes to revise its annual fees in §§ 171.15 and 171.16 to recover approximately 100 percent of the NRC’s FY 2021 enacted budget (less the budget authority for excluded activities and the estimated amount to be recovered through 10 CFR part 170 fees). The total estimated 10 CFR part 170 collections for this proposed rule are \$185.9 million, which is a decrease of \$34.2

million from the FY 2020 final rule (see the specific fee class sections for a discussion of this decrease). The NRC, therefore, proposes to recover \$522.9 million through annual fees from its licensees, which is an increase of \$14.9 million from the FY 2020 final rule.

Table V shows the proposed rebaselined fees for FY 2021 for a sample of licensee categories. The FY 2020 amounts are provided for comparison purposes.

TABLE V—REBASELINED ANNUAL FEES
[Actual dollars]

Class/category of licenses	FY 2020 final annual fee	FY 2021 proposed annual fee
Operating Power Reactors	\$4,621,000	\$4,809,000
+ Spent Fuel Storage/Reactor Decommissioning	188,000	246,000
Total, Combined Fee	4,804,000	5,050,000
Spent Fuel Storage/Reactor Decommissioning	188,000	246,000
Non-Power Production or Utilization Facilities	81,300	78,700
High Enriched Uranium Fuel Facility (Category 1.A.(1)(a))	5,067,000	4,835,000
Low Enriched Uranium Fuel Facility (Category 1.A.(1)(b))	1,717,000	1,639,000
Uranium Enrichment (Category 1.E)	2,208,000	2,107,000
UF ₆ Conversion and Deconversion Facility (Category 2.A.(1))	510,000	486,000
Basic <i>In Situ</i> Recovery Facilities (Category 2.A.(2)(b))	49,200	45,900
Typical Users:		
Radiographers (Category 3O)	29,900	29,000
All Other Specific Byproduct Material Licensees (Category 3P)	9,700	9,800
Medical Other (Category 7C)	14,800	16,700
Device/Product Safety Evaluation—Broad (Category 9A)	13,800	17,800

The work papers that support this proposed rule show in detail how the NRC allocates the budgeted resources for each class of licensees and calculates the fees.

Paragraphs a. through h. of this section describe the budgeted resources

allocated to each class of licensees and the calculations of the rebaselined fees. For more information about detailed fee calculations for each class, please consult the accompanying work papers for this proposed rule.

a. Operating Power Reactors

The NRC proposes to collect \$446.8 million in annual fees from the operating power reactors fee class in FY 2021, as shown in Table VI. The FY 2020 operating power reactor fees are shown for comparison purposes.

TABLE VI—ANNUAL FEE SUMMARY CALCULATIONS FOR OPERATING POWER REACTORS
[Dollars in millions]

Summary fee calculations	FY 2020 final	FY 2021 proposed
Total budgeted resources	\$623.9	\$611.8
Less estimated 10 CFR part 170 receipts	– 186.7	– 157.0

TABLE VI—ANNUAL FEE SUMMARY CALCULATIONS FOR OPERATING POWER REACTORS—Continued
[Dollars in millions]

Summary fee calculations	FY 2020 final	FY 2021 proposed
Net 10 CFR part 171 resources	437.2	454.8
Allocated generic transportation	0.2	0.3
Fee-relief adjustment	-1.2	N/A
Allocated LLW surcharge	3.1	2.9
Billing adjustment	2.4	-8.4
Adjustment: Estimated current year collections from terminated reactor (Indian Point Generating, Unit 2 in FY 2020 and Indian Point Generating, Unit 3 in FY 2021)	-2.7	-2.7
Total required annual fee recovery	439.0	446.8
Total operating reactors	95	93
Annual fee per reactor	4.621	4.804

In comparison to FY 2020, the FY 2021 proposed annual fee for the operating power reactors fee class is increasing primarily due to the following: (1) The decline in 10 CFR part 170 estimated billings; (2) the reduction in the fleet due to the closure of Duane Arnold and Indian Point Energy Center (Indian Point Unit 3); and (3) the absence of the fee-relief adjustment. The increase in the proposed annual fee for the operating power reactors fee class is partially offset due to the following: (1) The decrease in budgeted resources and (2) a billing adjustment and current year collection adjustment. These components are discussed below.

The 10 CFR part 170 estimated billings declined primarily due to the following: (1) The decrease due to the plant closures of Indian Point Unit 3 closing in April 2021 and Duane Arnold closing in October 2020; (2) the completion of construction activities at Vogtle Electric Generating Plant, Unit 3 (Vogtle Unit 3); and (3) the completion of the NuScale small modular reactor (SMR) Design Certification review. This decrease in the 10 CFR part 170 estimated billings is partially offset by increased work to support the following: (1) The review of the Oklo Power LLC combined license application for the Aurora micro reactor, which was docketed in June 2020; and (2) inspection activities in order to perform inspections that were deferred due to the COVID-19 public health emergency.

In addition, as a result of the revised fee-recovery framework under NEIMA, the FY 2021 proposed annual fee increased due to the absence of the fee-relief adjustment that was made for FY 2020. Because NEIMA eliminated the approximately 90 percent requirement for fee recovery and, in turn, the 10 percent limit on fee-relief activities, the NRC will no longer provide a fee-relief

credit or assess a fee-relief surcharge as part of the calculation of annual fees for each licensee fee class.

The increase in the annual fee is partially offset by a decline in FTEs that includes, but is not limited to, the following: (1) The completion of probabilistic risk assessment reviews related to lessons learned from the accident at Fukushima Dai-ichi in Japan; (2) the closure of Duane Arnold; (3) reduced workload associated with significance determinations, operating experience evaluations, and generic communications development; (4) the completion of the NuScale SMR Design Certification review; (5) a decrease in licensing actions resulting from the completion of construction of Vogtle Unit 3 and reduced demand for operator licensing and vendor inspection work as Vogtle Unit 3 will be transitioning to operational; and (6) decreases in research workload in areas of flooding, high energy arc faulting testing, and the near completion of the Level 3 probabilistic risk assessment project. The decrease in the budgeted resources is offset by an increase for certain contract costs due to a reduction in the utilization of prior-year unobligated carryover funding and an increase in the fully costed FTE rate compared to FY 2020.

In addition, the increase in the annual fee is partially offset by the \$8,444,731 billing adjustment that was included in the operating power reactors calculation due to the deferral of annual fees and fees for services due to the COVID-19 public health emergency, and a \$2,700,000 current year collection adjustment in the operating power reactors fee class calculation due to the shutdown of Indian Point Unit 3.

The recoverable budgeted costs are divided equally among the 93 licensed operating power reactors, a decrease of two operating power reactors compared

to FY 2020 due to the closure of Duane Arnold and Indian Point Unit 3, resulting in an annual fee of \$4,804,000 per reactor. Additionally, each licensed operating power reactor is assessed the FY 2021 spent fuel storage/reactor decommissioning annual fee of \$246,000 (see Table VII and the discussion that follows). The combined FY 2021 annual fee for each operating power reactor is \$5,050,000.

The NRC included an estimate of the operating power reactors annual fee in Appendix C, “Estimated Operating Power Reactors Annual Fee,” of the FY 2021 CBJ, with the intent to increase transparency with stakeholders. The NRC developed this estimate based on the staff’s allocation of the FY 2021 budget request to fee classes under 10 CFR part 170, and allocations within the operating power reactors fee class under 10 CFR part 171. In addition, the estimated annual fee assumed 93 operating power reactors in FY 2021 and applied various data assumptions from the FY 2019 final fee rule. Based on these allocations and assumptions, the operating power reactor annual fee included in the FY 2021 CBJ was estimated to be \$4.8 million, approximately \$0.6 million below the FY 2015 operating power reactors annual fee amount adjusted for inflation of \$5.4 million. Collectively, these actions serve to mitigate impacts resulting from licensees leaving the fee class and help the NRC continue to develop budgets that account for a fee class with a declining number of licensees. Although the FY 2021 CBJ included the estimated operating power reactors annual fee, the assumptions made above between budget formulation and the development of the FY 2021 proposed rule have changed, as shown in Table VI.

In FY 2016, the NRC amended its licensing, inspection, and annual fee

regulations to establish a variable annual fee structure for light-water SMRs (81 FR 32617). Under the variable annual fee structure, an SMR’s annual fee would be calculated as a function of its licensed thermal power rating. Currently, there are no operating SMRs; therefore, the NRC will not assess an

annual fee in FY 2021 for this type of licensee.

b. Spent Fuel Storage/Reactor Decommissioning

The NRC proposes to collect \$30.1 million in annual fees from 10 CFR part 50 power reactor licensees, and from 10

CFR part 72 licensees that do not hold a 10 CFR part 50 license, to recover the budgeted costs for the spent fuel storage/reactor decommissioning fee class in FY 2021, as shown in Table VII. The FY 2020 spent fuel storage/reactor decommissioning fees are shown for comparison purposes.

TABLE VII—ANNUAL FEE SUMMARY CALCULATIONS FOR SPENT FUEL STORAGE/REACTOR DECOMMISSIONING
[Dollars in millions]

Summary fee calculations	FY 2020 final	FY 2021 proposed
Total budgeted resources	\$37.9	\$42.2
Less estimated 10 CFR part 170 receipts	– 15.9	– 12.4
Net 10 CFR part 171 resources	22.1	29.8
Allocated generic transportation costs	0.8	0.8
Fee-relief adjustment	– 0.1	N/A
Billing adjustments	0.1	– 0.6
Total required annual fee recovery	22.9	30.1
Total spent fuel storage facilities	122	122
Annual fee per facility	\$0.188	\$0.246

In comparison to FY 2020, the FY 2021 proposed annual fee for the spent fuel storage/reactor decommissioning fee class is increasing primarily due to the increase in the budgeted resources and the decline in the 10 CFR part 170 estimated billings.

The budgeted resources for the spent fuel storage/reactor decommissioning fee class increased primarily to support of the following: (1) Decommissioning activities associated with power reactors in decommissioning, including the transition of Duane Arnold from operation to the power reactor decommissioning program; and (2) waste research activities associated with accident tolerant fuel, high burnup, and enrichment extension fuels.

The 10 CFR part 170 estimated billings for FY 2021 decreased primarily due to the following: (1) A reduction in hours associated with the staff’s review of renewals and amendments for independent spent fuel storage installation (ISFSI) licenses and dry cask storage certificates of compliance (CoCs); (2) the near completion of the staff’s review of the Interim Storage Partners consolidated interim storage facility application; (3) the completion

of certain follow-up inspections and other inspection activities for San Onofre Nuclear Generating Station; (4) the completion of licensing actions, partial site release requests, and a decrease in confirmatory survey work at multiple sites; (5) the near completion of the license termination for the La Crosse Boiling Water Reactor; (6) a reduction in contract support due to a decrease in confirmatory survey contractor work expected; and (7) a decrease in billable hours for the Pilgrim Nuclear Power Station due to the site converting to decommissioning. This decrease in the 10 CFR part 170 estimated billings is partially offset by increased work to support the following: (1) The review of renewals and amendments for dry cask storage certificates of compliance, and inspection activities for ISFSI licenses and dry cask storage CoCs; (2) the staff’s safety and environmental review of the Holtec HI–STORE consolidated interim storage facility application; (3) the staff’s review of the Holtec Thermal Topical Report on the HI–STORM 100 and HI–STORM FW Systems; (4) activities within the power reactor

decommissioning program associated with the plant closures of Duane Arnold, Indian Point Units 2 and 3, and Three Mile Island Nuclear Generating Station, Unit 1; and (5) the review of decommissioning license amendments, exemptions, and inspection activities at multiple sites.

The increase in the annual fee is partially offset by an approximate \$0.6 million 10 CFR part 171 billing adjustment that was included in the spent fuel storage/reactor decommissioning calculation due to the deferral of annual fees and fees for services due to the COVID–19 public health emergency.

The required annual fee recovery amount is divided equally among 122 licensees, resulting in a proposed FY 2021 annual fee of \$246,000 per licensee.

c. Fuel Facilities

The NRC proposes to collect \$17.2 million in annual fees from the fuel facilities fee class in FY 2021, as shown in Table VIII. The FY 2020 fuel facilities fees are shown for comparison purposes.

TABLE VIII—ANNUAL FEE SUMMARY CALCULATIONS FOR FUEL FACILITIES
[Dollars in millions]

Summary fee calculations	FY 2020 final	FY 2021 proposed
Total budgeted resources	\$23.2	\$23.3
Less estimated 10 CFR part 170 receipts	– 6.8	– 7.4
Net 10 CFR part 171 resources	16.5	16.0

TABLE VIII—ANNUAL FEE SUMMARY CALCULATIONS FOR FUEL FACILITIES—Continued
[Dollars in millions]

Summary fee calculations	FY 2020 final	FY 2021 proposed
Allocated generic transportation	1.1	1.2
Fee-relief adjustment	-0.1	N/A
Allocated LLW surcharge	0.4	0.3
Billing adjustments	0.1	-0.3
Total remaining required annual fee recovery	\$18.0	\$17.2

In comparison to FY 2020, the FY 2021 proposed annual fee for the fuel facilities fee class is decreasing primarily due to the increase in 10 CFR part 170 estimated billings and the 10 CFR part 171 billing adjustment that was included in the fuel facilities calculation due to the deferral of annual fees and fees for services due to the COVID-19 public health emergency. The decrease in the proposed annual fee is offset by an increase in the budgeted resources as discussed below.

The 10 CFR part 170 estimated billings increased as a result of the following: (1) The increased workload to support the staff's review of a license amendment application associated with high assay low enriched uranium and the associated security plans, and (2) the

review of the Westinghouse environmental impact statement being developed for the license renewal. As part of the proposed annual fee, an approximate \$0.3 million billing adjustment was included in the fuel facilities calculation due to the deferral of annual fees and fees for services due to the COVID-19 public health emergency.

The decrease in the proposed annual fee is offset in part by an increase in the resources for contract costs budgeted for the fuel facilities fee class primarily due to a reduction in the utilization of prior-year unobligated carryover compared to FY 2020.

The NRC will continue allocating annual fees to individual fuel facility licensees based on the effort/fee determination matrix developed in the

FY 1999 final fee rule (64 FR 31447; June 10, 1999). To briefly recap, the matrix groups licensees within this fee class into various fee categories. The matrix lists processes that are conducted at licensed sites and assigns effort factors for the safety and safeguards activities associated with each process (these effort levels are reflected in Table IX). The annual fees are then distributed across the fee class based on the regulatory effort assigned by the matrix. The effort factors in the matrix represent regulatory effort that is not recovered through 10 CFR part 170 fees (e.g., rulemaking, guidance). Regulatory effort for activities that are subject to 10 CFR part 170 fees, such as the number of inspections, is not applicable to the effort factor.

TABLE IX—EFFORT FACTORS FOR FUEL FACILITIES, FY 2021

Facility type (fee category)	Number of facilities	Effort factors	
		Safety	Safeguards
High-Enriched Uranium Fuel (1.A.(1)(a))	2	88	91
Low-Enriched Uranium Fuel (1.A.(1)(b))	3	70	21
Limited Operations (1.A.(2)(a))	0	0	0
Gas Centrifuge Enrichment Demonstration (1.A.(2)(b))	0	0	0
Hot Cell (and others) (1.A.(2)(c))	0	0	0
Uranium Enrichment (1.E.)	1	16	23
UF ₆ Conversion and Deconversion (2.A.(1))	1	7	2

In FY 2021, the total remaining amount of annual fees proposed to be recovered, \$17.2 million, is attributable to safety activities, safeguards activities, and the LLW surcharge. For FY 2021, the total budgeted resources proposed to be recovered as annual fees for safety activities are \$9.6 million. To calculate the annual fee, the NRC allocates this amount to each fee category based on its

percentage of the total regulatory effort for safety activities. Similarly, the NRC allocates the budgeted resources to be recovered as annual fees for safeguards activities, \$7.2 million, to each fee category based on its percentage of the total regulatory effort for safeguards activities. Finally, the fuel facilities fee class portion of the LLW surcharge—\$0.3 million—is allocated to each fee

category based on its percentage of the total regulatory effort for both safety and safeguards activities. The proposed annual fee per licensee is then calculated by dividing the total allocated budgeted resources for the fee category by the number of licensees in that fee category. The fee for each facility is summarized in Table X.

TABLE X—ANNUAL FEES FOR FUEL FACILITIES
[Actual dollars]

Facility type (fee category)	FY 2020 final annual fee	FY 2021 proposed annual fee
High-Enriched Uranium Fuel (1.A.(1)(a))	\$5,067,000	\$4,835,000
Low-Enriched Uranium Fuel (1.A.(1)(b))	1,717,000	1,639,000

TABLE X—ANNUAL FEES FOR FUEL FACILITIES—Continued
[Actual dollars]

Facility type (fee category)	FY 2020 final annual fee	FY 2021 proposed annual fee
Gas Centrifuge Enrichment Demonstration (1.A.(2)(b))	N/A	N/A
Hot Cell (and others) (1.A.(2)(c))	N/A	N/A
Uranium Enrichment (1.E.)	2,208,000	2,107,000
UF ₆ Conversion and Deconversion (2.A.(1))	510,000	486,000

d. Uranium Recovery Facilities recovery facilities fee class in FY 2021, uranium recovery fees are shown for as shown in Table XI. The FY 2020 comparison purposes.

The NRC proposes to collect \$0.1 million in annual fees from the uranium

TABLE XI—ANNUAL FEE SUMMARY CALCULATIONS FOR URANIUM RECOVERY FACILITIES
[Dollars in millions]

Summary fee calculations	FY 2020 final	FY 2021 proposed
Total budgeted resources	\$0.6	\$0.5
Less estimated 10 CFR part 170 receipts	-0.4	-0.3
Net 10 CFR part 171 resources	0.2	0.1
Allocated generic transportation	N/A	N/A
Fee-relief adjustment	0.0	N/A
Billing adjustments	0.0	0.0
Total required annual fee recovery	0.2	0.1

In comparison to FY 2020, the FY 2021 proposed annual fee for the uranium recovery fee class is decreasing primarily due to a decline in the budgeted resources because of an expected decrease in casework associated with uranium recovery policy issues, environmental review coordination activities, and guidance development.

The NRC regulates DOE's Title I and Title II activities under the Uranium

Mill Tailings Radiation Control Act (UMTRCA).³ The annual fee assessed to DOE includes the costs specifically budgeted for the NRC's UMTRCA Title I and II activities, as well as 10 percent of the remaining budgeted costs for this fee class. The NRC described the overall methodology for determining fees for UMTRCA in the FY 2002 fee rule (67 FR 42625; June 24, 2002), and the NRC continues to use this methodology. The

DOE's UMTRCA annual fee decreased compared to FY 2020 due to an increase in the 10 CFR part 170 estimated billings for the anticipated workload increases at various DOE UMTRCA sites. The NRC assesses the remaining 90 percent of its budgeted costs to the remaining licensee in this fee class, as described in the work papers. This is reflected in Table XII:

TABLE XII—COSTS RECOVERED THROUGH ANNUAL FEES; URANIUM RECOVERY FEE CLASS
[Actual dollars]

Summary of costs	FY 2020 final annual fee	FY 2021 proposed annual fee
DOE Annual Fee Amount (UMTRCA Title I and Title II) General Licenses:		
UMTRCA Title I and Title II budgeted costs less 10 CFR part 170 receipts	\$114,577	\$75,442
10 percent of generic/other uranium recovery budgeted costs	5,573	5,103
10 percent of uranium recovery fee-relief adjustment	-107	N/A
Total Annual Fee Amount for DOE (rounded)	120,000	81,000
Annual Fee Amount for Other Uranium Recovery Licenses:		
90 percent of generic/other uranium recovery budgeted costs less the amounts specifically budgeted for UMTRCA Title I and Title II activities	50,153	45,923
90 percent of uranium recovery fee-relief adjustment	-959	N/A
Total Annual Fee Amount for Other Uranium Recovery Licenses	49,194	45,923

³ The Congress established the two programs, Title I and Title II, under UMTRCA to protect the public and the environment from hazards associated with uranium milling. The UMTRCA

Title I program is for remedial action at abandoned mill tailings sites where tailings resulted largely from production of uranium for weapons programs. The NRC also regulates DOE's UMTRCA Title II

program, which is directed toward uranium mill sites licensed by the NRC or Agreement States in or after 1978.

Further, for any non-DOE licensees, the NRC will continue using a matrix to determine the effort levels associated with conducting generic regulatory actions for the different licensees in the uranium recovery fee class; this is similar to the NRC’s approach for fuel facilities, described previously. The matrix methodology for uranium

recovery licensees first identifies the licensee categories included within this fee class (excluding DOE). These categories are: Conventional uranium mills and heap leach facilities, uranium *in situ* recovery (ISR) and resin ISR facilities, and mill tailings disposal facilities. The matrix identifies the types of operating activities that support and

benefit these licensees, along with each activity’s relative weight (See the work papers). Currently, there is only one remaining non-DOE licensee, which is a non-resin *in situ* recovery facility. Table XIII displays the benefit factors for the non-DOE licensee in that fee category:

TABLE XIII—BENEFIT FACTORS FOR URANIUM RECOVERY LICENSES

Fee category	Number of licensees	Benefit factor per licensee	Total value	Benefit factor percent total
Conventional and Heap Leach mills (2.A.(2)(a))	0	0	0	0
Basic <i>In Situ</i> Recovery facilities (2.A.(2)(b))	1	190	190	100.0
Expanded <i>In Situ</i> Recovery facilities (2.A.(2)(c))	0	0	0	0
Section 11e.(2) disposal incidental to existing tailings sites (2.A.(4))	0	0	0	0
Total	1	190	190	100.0

The annual fee for the remaining non-DOE licensee is calculated by allocating 100 percent of the budgeted resources, as summarized in Table XIV.

TABLE XIV—ANNUAL FEES FOR URANIUM RECOVERY LICENSEES
(Other than DOE)
[Actual dollars]

Facility type (fee category)	FY 2020 final annual fee	FY 2021 proposed annual fee
Conventional and Heap Leach mills (2.A.(2)(a))	N/A	N/A
Basic <i>In Situ</i> Recovery facilities (2.A.(2)(b))	\$49,200	\$45,900
Expanded <i>In Situ</i> Recovery facilities (2.A.(2)(c))	N/A	N/A
Section 11e.(2) disposal incidental to existing tailings sites (2.A.(4))	N/A	N/A

e. Non-Power Production or Utilization Facilities

The NRC proposes to collect \$0.315 million in annual fees from the non-power production or utilization

facilities fee class in FY 2021, as shown in Table XV. The non-power production or utilization facility fee class replaces the research and test reactor fee class from previous fiscal years. This revised fee class accounts for commercial non-

reactor production and utilization facilities expected to be used for the production of medical isotopes. The final FY 2020 research and test reactors fees are shown for comparison purposes.

TABLE XV—ANNUAL FEE SUMMARY CALCULATIONS FOR NON-POWER PRODUCTION OR UTILIZATION FACILITIES
[Actual dollars]

Summary fee calculations	FY 2020 final	FY 2021 proposed
Total budgeted resources	\$3,317,830	\$3,992,782
Less estimated 10 CFR part 170 receipts	-3,030,000	-3,655,000
Net 10 CFR part 171 resources	287,830	337,782
Allocated generic transportation	30,713	32,585
Fee-relief adjustment	-6,183	N/A
Billing adjustments	12,980	-55,539
Total required annual fee recovery	325,341	314,827
Total non-power production or utilization facilities licenses	4	4
Total annual fee per license (rounded)	81,300	78,700

In comparison to FY 2020, the proposed annual fee for the non-power production or utilization facilities fee

class is decreasing, primarily due to a rise in 10 CFR part 170 estimated billings to support the following: (1)

Activities associated with the review of the GE Nuclear Test Reactor license renewal application; (2) activities

associated with reviewing operating license application(s), construction permit application(s); and (3) conducting pre-application activities for non-power production or utilization facilities. The budgeted resources for the non-power production or utilization facilities fee class increased primarily to support an increased workload for initial licensing activities.

The annual fee-recovery amount is divided equally among the four non-power production or utilization facilities licensees subject to annual fees and results in an FY 2021 proposed annual fee of \$78,700 for each licensee.

f. Rare Earth

The NRC has not allocated any budgeted resources to this fee class; therefore, the NRC is not proposing to

assess an annual fee for this fee class in FY 2021.

g. Materials Users

The NRC proposes to collect \$35.1 million in annual fees from materials users licensed under 10 CFR parts 30, 40, and 70, as shown in Table XVI. The FY 2020 materials users fees are shown for comparison purposes.

TABLE XVI—ANNUAL FEE SUMMARY CALCULATIONS FOR MATERIALS USERS
[Dollars in millions]

Summary fee calculations	FY 2020 final	FY 2021 proposed
Total budgeted resources for licensees not regulated by Agreement States	\$33.7	\$35.1
Less estimated 10 CFR part 170 receipts	- 1.0	- 1.0
Net 10 CFR part 171 resources	32.8	34.1
Allocated generic transportation	1.2	1.3
Fee-relief adjustment	0.0	N/A
LLW surcharge	0.0	0.1
Billing adjustments	0.1	- 0.4
Total required annual fee recovery	34.1	35.1

The formula for calculating 10 CFR part 171 annual fees for the various categories of materials users is described in detail in the work papers. Generally, the calculation results in a single annual fee that includes 10 CFR part 170 costs, such as amendments, renewals, inspections, and other licensing actions specific to individual fee categories.

The total annual fee recovery of \$35.1 million proposed for FY 2021 shown in Table XVI consists of \$27.3 million for general costs and \$7.7 million for inspection costs. To equitably and fairly allocate the \$35.1 million required to be collected among approximately 2,500 diverse materials users licensees, the NRC continues to calculate the annual fees for each fee category within this class based on the 10 CFR part 170 application fees and estimated inspection costs for each fee category. Because the application fees and inspection costs are indicative of the complexity of the materials license, this approach provides a proxy for allocating the generic and other regulatory costs to the diverse fee categories. This fee calculation method also considers the inspection frequency (priority), which is indicative of the safety risk and resulting regulatory costs associated with the categories of licenses.

In comparison to FY 2020, the proposed annual fees for the materials

users fee class are increasing due to the following: (1) The NRC is proposing an increase in the fully costed FTE rate compared to FY 2020; (2) an increase in the budgeted resources for contract costs due to a reduction in the utilization of prior-year unobligated carryover funding compared to FY 2020; and (3) the realignment of budgeted resources that supports contract funding for general license tracking, the materials event database, and rulemaking information technology activities. In addition, the results of the biennial review of fees resulted in some increases and decreases in the proposed annual fees.

A constant multiplier is established to recover the total general costs (including allocated generic transportation costs) of \$27.3 million. To derive the constant multiplier, the general cost amount is divided by the sum of all fee categories (application fee plus the inspection fee divided by inspection priority) then multiplied by the number of licensees. This calculation results in a constant multiplier of 0.99 for FY 2021. The average inspection cost is the average inspection hours for each fee category multiplied by the professional hourly rate of \$288. The inspection priority is the interval between routine inspections, expressed in years. The

inspection multiplier is established in order to recover the \$7.7 million in inspection costs. To derive the inspection multiplier, the inspection costs amount is divided by the sum of all fee categories (inspection fee divided by inspection priority) then multiplied by the number of licensees. This calculation results in an inspection multiplier of 1.43 for FY 2021. The unique category costs are any special costs that the NRC has budgeted for a specific category of licenses. Please see the work papers for more detail about this classification.

The proposed annual fee assessed to each licensee also takes into account a share of approximately \$0.087 million in LLW surcharge costs allocated to the materials users fee class (see Table IV, “Allocation of LLW Surcharge, FY 2021,” in Section IV, “Discussion,” of this document). The proposed annual fee for each fee category is shown in the revision to § 171.16(d).

h. Transportation

The NRC proposes to collect \$1.0 million in annual fees to recover generic transportation budgeted resources in FY 2021, as shown in Table XVII. The FY 2020 fees are shown for comparison purposes.

TABLE XVII—ANNUAL FEE SUMMARY CALCULATIONS FOR TRANSPORTATION
[Dollars in millions]

Summary fee calculations	FY 2020 final	FY 2021 proposed
Total Budgeted Resources	\$7.2	\$8.3
Less Estimated 10 CFR part 170 Receipts	-2.8	-3.6
Net 10 CFR part 171 Resources	4.4	4.6
Less Generic Transportation Resources	-3.4	-3.6
Fee-relief adjustment	0.0	N/A
Billing adjustments	0.0	-0.1
Total required annual fee recovery	1.0	1.0

In comparison to FY 2020, the proposed annual fee for the transportation fee class is decreasing primarily due to the 10 CFR part 171 billing adjustment and the rise in the 10 CFR part 170 estimated billings to support multiple amendment requests related to new amendment packages.

An offset to the decrease in the annual fee transportation fee class is due to the following: (1) An increase in the budgeted resources for contract costs due to a reduction in the utilization of prior-year unobligated carryover funding compared to FY 2020; (2) an increase in the number and complexities of transportation package applications as a result of rising power reactors in decommissioning; and (3)

the expanded use of accident tolerant fuels.

Consistent with the policy established in the NRC’s FY 2006 final fee rule (71 FR 30721; May 30, 2006), the NRC recovers generic transportation costs unrelated to DOE by including those costs in the annual fees for licensee fee classes. The NRC continues to assess a separate annual fee under § 171.16, fee category 18.A., for DOE transportation activities. The amount of the allocated generic resources is calculated by multiplying the percentage of total CoCs used by each fee class (and DOE) by the total generic transportation resources to be recovered.

This resource distribution to the licensee fee classes and DOE is shown

in Table XVIII. Note that for the non-power production or utilization facilities fee class, the NRC allocates the distribution to only those licensees that are subject to annual fees. Although five CoCs benefit the entire non-power production or utilization facilities fee class, only 4 out of 31 non-power production or utilization facilities licensees are subject to annual fees. Consequently, the number of CoCs used to determine the proportion of generic transportation resources allocated to annual fees for the non-power production or utilization facilities fee class has been adjusted to 0.7 so these licensees are charged a fair and equitable portion of the total fees (See the work papers).

TABLE XVIII—DISTRIBUTION OF TRANSPORTATION RESOURCES, FY 2021
[Dollars in millions]

Licensee fee class/DOE	Number of CoCs benefiting fee class or DOE	Percentage of total CoCs	Allocated generic transportation resources
Materials Users	25.0	27.3	1.3
Operating Power Reactors	5.0	5.5	0.3
Spent Fuel Storage/Reactor Decommissioning	16.0	17.5	0.8
Non-Power Production or Utilization Facilities	0.7	0.7	0.0
Fuel Facilities	24.0	26.2	1.2
Sub-Total of Generic Transportation Resources	70.7	77.1	3.6
DOE	21.0	22.9	1.1
Total	91.7	100.0	4.6

The NRC assesses an annual fee to DOE based on the 10 CFR part 71 CoCs it holds. The NRC, therefore, does not allocate these DOE-related resources to other licensees’ annual fees because these resources specifically support DOE.

FY 2021—Policy Changes

The NRC is proposing two policy changes for FY 2021:

Process for Disputing Errors in Invoices for Service Fees

Section 102(d)(3) of NEIMA requires the NRC to “modify regulations to ensure fair and appropriate processes to provide licensees and applicants an opportunity to efficiently dispute or otherwise seek review and correction of errors in invoices” for service fees. The NRC is proposing requirements for a standard method for licensees and applicants to efficiently dispute or seek review and correction of errors in

invoices. The proposed process is illustrated in the process map, “NRC Form 529, Processing Dispute of Fees-For-Service Charges” (ADAMS Accession No. ML20311A159). This proposed process follows the established method for licensees and applicants to submit requests for the review of fees assessed under 10 CFR part 170 (ADAMS Accession No. ML20104C055). The NRC Form 529 will be available in the agency’s eBilling system, on the agency’s public site, and

can be found under ADAMS Accession No. ML20339A673. Standard use of an NRC form and amendments to the current regulations in § 15.31 will increase efficiency by providing the licensees and applicants with clear guidelines and expectations for submitting a fee dispute. It will also eliminate ambiguity regarding the appropriate information needed for the NRC to consider and make a determination on a fee dispute.

In response to NEIMA's requirement that the NRC modify its regulations to provide licensees and applicants an opportunity to efficiently dispute or otherwise seek review and correction of errors in service fee invoices. The NRC proposes to revise its regulations in 10 CFR part 15. Specifically the NRC is proposing revisions to § 15.31, "Disputed debts," with conforming amendments in §§ 15.37, "Interest, penalties, and administrative costs," 15.53, "Reasons for suspending collection action," and changing § 170.51, "Right to review and appeal of prescribed fees," to "Right to dispute assessed fees." The NRC also proposes to add a new regulation, § 171.26, "Right to dispute assessed fees," to 10 CFR part 171. These proposed changes outline the interactions between the submitter and the NRC. The proposed process will enhance understanding of the dispute process by setting out the process for submitting a fee dispute, the stages of the decisionmaking process while the dispute is under review, and the manner by which the NRC will notify a debtor after it makes a final determination on a dispute. Additionally, the proposed revisions provide consistent terminology to differentiate fee disputes under 10 CFR part 15 from fee exemptions under 10 CFR parts 170 and 171.

Assessment of Annual Fees for Future 10 CFR Part 50 Non-Power Production or Utilization Facility Licensees and for Small Modular Reactor Licensees

The NRC proposes to amend § 171.15(a) so that the assessment of annual fees commences after future non-power production or utilization facility (NPUF) licensees have successfully completed startup testing and have provided written notification to the NRC. In addition, the NRC is proposing to rename the "research and test reactors" fee class the "non-power production and utilization facility" fee class, which would include currently operating research and test reactors and future NPUFs, such as non-reactor NPUF technologies. Finally, the NRC is proposing to amend § 171.15(e) so that the assessment of annual fees for a small

modular reactor (SMR) licensee commences after the successful completion of power ascension testing and the licensee provides written notification to the NRC. These proposed policy changes are consistent with the FY 2020 final fee rule that amended the timing of the assessment of annual fees for future 10 CFR part 50 power reactors and 10 CFR part 52 COL holders.

Currently, § 171.15(a), requires the NRC to assess annual fees to a test or research reactor (excluding test or research reactors exempted under § 171.11(b)) when the NRC authorizes the licensee to use nuclear materials (*i.e.*, begin operating the reactor in accordance with its license). The NRC has not established a policy for assessing 10 CFR part 171 annual fees to future non-reactor NPUF licensees (*e.g.*, SHINE Medical Technologies, LLC (SHINE)); at this time, the NRC currently assesses only 10 CFR part 170 service fees to prospective applicants for preapplication activities, construction permit holders (*i.e.*, SHINE and Northwest Medical Isotopes, LLC (NWMI)) and applicants for operating licenses (*i.e.*, SHINE) for commercial NPUFs. While the NRC's fee regulations do not have a fee class for future non-reactor NPUF licensees, the NRC historically has included budgeted resources for NWMI and SHINE within the research and test reactor fee class. The budgeted resources for NWMI and SHINE not recovered in 10 CFR part 170 service fees previously were included in fee-relief. These resources for the development of a medical isotope production infrastructure are now excluded from the fee-recovery requirement under NEIMA as a fee-relief activity identified by the Commission.

In anticipation that the NRC could issue an operating license in the future, the NRC is proposing to assess annual fees under § 171.15(a) to non-reactor NPUFs when they have notified the NRC of the successful completion of startup testing. As discussed previously, the NRC is also proposing to rename the "research and test reactors" fee class the "non-power production and utilization facility" fee class to account for new NPUF technologies not included in the research and test reactors fee class. This rule uses the term "non-power production or utilization facility" to have the same meaning as the definition used in SECY-19-0062, "Final Rule: Non-power Production or Utilization Facility License Renewal" (ADAMS Accession No. ML18031A000), dated June 17, 2019.⁴ The definition would

⁴ The NPUF final rule would also revise the definition of *research reactor* in §§ 170.3 and 171.5

include production or utilization facilities, licensed under § 50.21(a), § 50.21(c), or § 50.22, as applicable, that are not nuclear power reactors or production facilities within the meaning of paragraphs (1) and (2) of § 50.2, which defines "Production facility." This definition includes currently operating and future research and test reactors and proposed medical radioisotope facilities that would be licensed under 10 CFR part 50. As such, non-reactor NPUF licensees, such as SHINE, would be included in the same annual fee class as currently operating research and test reactors that pay 10 CFR part 171 annual fees. This proposed approach is consistent with the current approach of combining limited numbers of similar facilities into a single annual fee category, where "test reactors" (of which only one is currently operational) are assessed the same 10 CFR part 171 annual fees as "research reactors." In addition, the NRC expects that NPUF facilities will request that a single license under 10 CFR part 50 authorize the operation of multiple utilization and/or production facilities. Based on the number of facilities authorized to operate under a single license, the number of staff hours dedicated to licensing and oversight activities for these facilities is not expected to differ significantly compared to those for the current operating fleet of NPUFs. Furthermore, stakeholders have previously supported this approach regarding the assessment of 10 CFR part 171 annual fees for future NPUFs. Therefore, a single annual fee would be appropriate even where an NPUF licensee has multiple facilities operating under a single 10 CFR part 50 license.

SMR licenses can be issued under 10 CFR part 50 or 10 CFR part 52. Currently, § 171.15, requires the NRC to assess annual fees to a 10 CFR part 50 SMR licensee upon issuance of an operating license, or to a 10 CFR part 52 SMR COL holder after the Commission has made the finding under § 52.103(g) for all licenses held for an SMR site. The annual fee would be determined using the cumulative licensed thermal power rating of all SMR units and the bundled unit concept. For a given site, the use of the bundled unit concept is

to conform to other definitions in 10 CFR chapter I. The NRC is not proposing to change the definition of *Research reactor* in the specific exemption for federally-owned and State-owned research reactors in § 170.11(a)(9) or § 171.11(b)(2). The current definition in § 171.11(b)(2) is based on the language of OBRA-90. Further, a substantively similar definition of *research reactor* was included in the provisions of NEIMA that relate to the NRC's fee recovery structure. Changing the definition of *research reactor* in § 171.11(b)(2) would therefore be inconsistent with NEIMA.

independent of the number of SMR plants, the number of SMR licenses issued, and the sequencing of the SMR licenses that have been issued. There are currently no operating SMRs; therefore, the NRC has not yet assessed an annual fee for this type of licensee.

The NRC recognizes that, after the issuance of an operating license under 10 CFR part 50 for NPUFs and SMRs, or a COL and § 52.103(g) finding under 10 CFR part 52 for SMRs, fuel or targets (or both) must be loaded and startup testing (for NPUFs) and power ascension testing (for SMRs) must be completed before the facility begins full licensed operation. As discussed in the statement of considerations for the FY 2020 final fee rule, 10 CFR part 52 COLs for power reactors contain a standard license condition that requires the submittal of written notification to the NRC upon successful completion of power ascension testing. Therefore, the NRC proposes to incorporate a similar license condition into all future 10 CFR part 50 operating licenses for NPUFs and SMRs, and 10 CFR part 52 COLs for SMRs to ensure that the licensee will promptly notify the NRC of the successful completion of startup testing or power ascension testing. The proposed annual fee assessment for future NPUFs and SMR licenses under 10 CFR part 50, and SMRs under 10 CFR part 52, would begin on the date of the licensee's written notification of the successful completion of startup testing or power ascension testing.

Accordingly, the NRC proposes to amend § 171.15(a) and § 171.15(e) so that annual fees commence upon written notification to the NRC of successful completion of startup testing and power ascension testing, rather than upon issuance of the operating license for 10 CFR part 50 NPUFs and SMRs, or issuance of the § 52.103(g) finding for 10 CFR part 52 COL holders for SMRs, but upon written notification to the NRC of successful completion of startup testing and/or power ascension testing. The NRC finds this proposed change to 10 CFR part 171 to be reasonable, fair, and equitable, and to be supported by the public comments the NRC received on PRM-171-1 and on the FY 2020 proposed rule. The NRC also proposes conforming changes to revise § 170.3, "Definitions," § 171.3, "Scope," § 171.5, "Definitions," and § 171.17, "Proration."

FY 2021—Administrative Changes

The NRC proposes to make six administrative changes:

1. Change Small Entity Fees

As stated in SECY-08-0174, "Fiscal Year 2009 Proposed Fee Rule and Advance Rulemaking for Grid-Appropriate Reactor Fees," dated November 7, 2008 (ADAMS Accession No. ML083120518), the NRC determined that the maximum small entity fee should be adjusted biennially using a fixed percentage of 39 percent applied to the prior 2-year weighted average of materials users' fees for all fee categories which have small entity licensees. The 39 percent was based on the small entity annual fee for 2005, which was the first year the NRC was required to recover only 90 percent of its budget authority. This methodology remains in place; however, the NRC does also consider whether or not implementing an increase will have a disproportionate impact on the NRC's small licensees when compared to other licensees. Therefore, the increase for the upper and lower tier fees were capped at a 21 percent increase.

For the FY 2021 proposed fee rule, the NRC conducted a biennial review of small entity fees to determine whether the NRC should change those fees. The NRC used the fee methodology, developed in FY 2009, which applies a fixed percentage of 39 percent to the prior 2-year weighted average of materials users' fees, when performing its biennial review. Based on this methodology and as a result of the FY 2021 biennial review, the NRC is now proposing to increase the upper tier small entity fee from \$4,500 to \$4,900 and increase the lower tier fee from \$900 to \$1,000.

This would constitute a 9 percent and 11 percent increase, respectively. The NRC believes these fees are reasonable and provide relief to small entities while at the same time recovering from those licensees some of the NRC's costs for activities that benefit them.

2. Amend § 170.1, "Purpose," To Change the Reference to the Independent Offices Appropriation Act, 1952

The NRC proposes to amend § 170.1 to replace the "of" after Independent Offices Appropriation Act with a comma to make the reference to the legislation consistent with references in other NRC contexts.

3. Amend § 170.3, "Definitions," To Eliminate Definitions for "Balance of Plants," "Nuclear Steam Supply System," and "Reference Systems Concept"

The NRC proposes to amend § 170.3 to eliminate definitions for "Balance of

plants," "Nuclear Steam Supply System," and "Reference systems concept." These definitions are no longer applicable in 10 CFR part 170. These definitions were added in the FY 1977 final fee rule (43 FR 7210; March 23, 1978) to resolve issues concerning assessing fees for balance of plant reviews, related to a previous fee category (category A.4.b in the table at § 170.21 for standardized design-reference systems concept), that was not subject to full cost recovery. In the FY 1991 final fee rule, the NRC amended 10 CFR parts 52 and 170 to assess licensing fees for the review of standardized reactor designs, which would be subject to full cost recovery (56 FR 31472; July 10, 1991). This proposed amendment to eliminate these definitions will not impact the NRC's assessment of 10 CFR part 170 fees for service.

4. Remove Footnote 6 to the Table in § 170.21, and Footnote 12 to the Table in § 170.31

The NRC proposes to remove footnote 6 to the table in § 170.21 and footnote 12 to the table in § 170.31 because (1) Congress has not enacted legislation that would exclude import and export activities from the fee-recoverable budget in FY 2021; and (2) in accordance with NEIMA, for FY 2021, the NRC identified international activities as fee-relief activities, but it did not include resources for import and export licensing. The NRC is therefore proposing to charge fees for import and export licensing actions.

5. Amend § 171.5, "Definitions," To Replace the Reference in "Budget Authority"

The NRC proposes to amend the definition of "budget authority" to replace the reference to Public Law 101-508 (*i.e.*, OBRA-90) with a reference to Public Law 115-439 (*i.e.*, NEIMA). Effective October 1, 2020, NEIMA repealed Section 6101 of OBRA-90 and put in place a revised fee recovery framework, requiring the NRC to recover, to the maximum extent practicable, approximately 100 percent of its annual budget, less the budget authority for excluded activities.

6. Amend § 171.11(c), "Exemptions"

The NRC proposes to revise § 171.11(c) to change the "or" in the section to "and." This proposed change would accurately reflect that even when an exemption is "in the public interest," the NRC cannot grant the exemption unless it is "authorized by law." This proposed change would also harmonize § 171.11(c) with § 170.11(b), which uses

“and.” This proposed change would not alter the NRC’s fee exemption policy.

Update on the Fees Transformation Initiative

In the Staff Requirements Memorandum, dated October 19, 2016, (ADAMS Accession No. ML16293A902) for SECY–16–0097, “Fee Setting Improvements and Fiscal Year 2017 Proposed Fee Rule,” (ADAMS Accession No. ML16194A365), the Commission directed the staff to accelerate its process improvements for setting fees, including the transition to an eBilling system. In addition, the Commission directed the staff to begin the fees transformation activities listed in SECY–16–0097 as “Process Changes Recommended for Future Consideration—FY 2018 and Beyond.” The NRC has completed 39 of the 40 fees transformation activities, including the full implementation of an electronic billing system.

In October 2019, the agency released its eBilling system. This public facing, web-based application provides licensees with immediate delivery of NRC invoices, customizable email notifications, capability to view and analyze invoice details, and access to the U.S. Department of the Treasury systems to pay invoices. The eBilling application provides licensees greater transparency and has increased applicant and licensee confidence in the assessed fees and charges. Since the NRC released the eBilling application, 341 licensees have been enrolled and 764 dockets are now available in the application.

The one fees transformation activity yet to be completed is the rulemaking to update the NRC’s small business size standards in § 2.810, “NRC size standards.” In FY 2020, the NRC conducted a survey of materials licensees to collect relevant data to help determine the need for changes to the NRC’s small business size standards in § 2.810. In addition, the NRC considered changes in the small business size standards published by the Small Business Administration. On December 7, 2020, the staff submitted SECY–20–0111, “Rulemaking Plan to Amend the Receipts-Based NRC Size Standards,” to the Commission (ADAMS Accession No. ML20268B327) with the staff’s recommendations for amending the NRC’s receipts-based size standards. The NRC will continue to include updates on this rulemaking activity within the FY 2021 and FY 2022 fee rules to ensure that affected licensees are adequately informed. The public can track all NRC rulemaking activities, including the rulemaking on the NRC’s

size standards, on the NRC’s Rulemaking Tracking and Reporting system at <https://www.nrc.gov/reading-rm/doc-collections/rulemaking-ruleforum/active/RuleIndex.html>, or by Docket ID NRC–2014–0264 at <http://www.regulations.gov>.

For more information, see the fees transformation accomplishments schedule, located on the NRC’s license fees web page at: <https://www.nrc.gov/about-nrc/regulatory/licensing/fees-transformation-accomplishments.html>.

IV. Regulatory Flexibility Certification

As required by the Regulatory Flexibility Act of 1980, as amended (RFA),⁵ the NRC has prepared a regulatory flexibility analysis related to this proposed rule. The regulatory flexibility analysis is available as indicated in Section XIII Availability of Documents, of this document.

V. Regulatory Analysis

Under NEIMA, the NRC is required to recover, to the maximum extent practicable, approximately 100 percent of its annual budget for FY 2021 less the budget authority for excluded activities. The NRC established fee methodology guidelines for 10 CFR part 170 in 1978, and established additional fee methodology guidelines for 10 CFR part 171 in 1986. In subsequent rulemakings, the NRC has adjusted its fees without changing the underlying principles of its fee policy to ensure that the NRC continues to comply with the statutory requirements for cost recovery.

In this proposed rule, the NRC continues this longstanding approach. Therefore, the NRC did not identify any alternatives to the current fee structure guidelines and did not prepare a regulatory analysis for this proposed rule.

VI. Backfitting and Issue Finality

The NRC has determined that the backfit rule, § 50.109, does not apply to this proposed rule and that a backfit analysis is not required because these amendments do not require the modification of, or addition to, (1) systems, structures, components, or the design of a facility; (2) the design approval or manufacturing license for a facility; or (3) the procedures or organization required to design, construct, or operate a facility.

VII. Plain Writing

The Plain Writing Act of 2010 (Pub. L. 111–274) requires Federal agencies to

write documents in a clear, concise, and well-organized manner. The NRC wrote this document to be consistent with the Plain Writing Act, as well as the Presidential Memorandum, “Plain Language in Government Writing,” published June 10, 1998 (63 FR 31885). The NRC requests comment on the clarity and effectiveness of the language used in this proposed rule.

VIII. National Environmental Policy Act

The NRC has determined that this proposed rule is the type of action described in 10 CFR 51.22(c)(1). Therefore, neither an environmental impact statement nor environmental assessment has been prepared for this proposed rule.

IX. Paperwork Reduction Act

This proposed rule does not contain a collection of information as defined in the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) and, therefore, is not subject to the requirements of the Act. In accordance with 5 CFR 1320.4(a)(2), NRC Forms 527 and 529 are also not subject to the requirements of the Paperwork Reduction Act.

Public Protection Notification

The NRC may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the document requesting or requiring the collection displays a currently valid OMB control number.

X. Voluntary Consensus Standards

The National Technology Transfer and Advancement Act of 1995, Public Law 104–113, requires that Federal agencies use technical standards that are developed or adopted by voluntary consensus standards bodies unless the use of such a standard is inconsistent with applicable law or otherwise impractical. In this proposed rule, the NRC proposes to amend the licensing, inspection, and annual fees charged to its licensees and applicants, as necessary, to recover, to the maximum extent practicable, approximately 100 percent of its annual budget for FY 2021 less the budget authority for excluded activities, as required by NEIMA. This action does not constitute the establishment of a standard that contains generally applicable requirements.

XI. Availability of Guidance

The Small Business Regulatory Enforcement Fairness Act requires all Federal agencies to prepare a written compliance guide for each rule for which the agency is required by 5 U.S.C.

⁵ 5 U.S.C. 603. The RFA, 5 U.S.C. 601–612, has been amended by the Small Business Regulatory Enforcement Fairness Act of 1996, Public Law 104–121, Title II, 110 Stat. 847 (1996).

604 to prepare a regulatory flexibility analysis. The NRC, in compliance with the law, prepared the “Small Entity Compliance Guide” for the FY 2021 proposed fee rule. The compliance guide was developed when the NRC completed the small entity biennial review for FY 2021. This compliance guide is available as indicated in Section XII, Availability of Documents, of this document.

XII. Public Meeting

The NRC will conduct a public meeting to describe the FY 2021 proposed rule and answer questions from the public on the proposed rule. The NRC will publish a notice of the location, time, and agenda of the meeting on the NRC’s public meeting website within 10 calendar days of the meeting. Stakeholders should monitor

the NRC’s public meeting website for information about the public meeting at: <http://www.nrc.gov/public-involve/public-meetings/index.cfm>.

XIII. Availability of Documents

The documents identified in the following table are available to interested persons through one or more of the following methods, as indicated.

Documents	ADAMS Accession No./web link
SECY-05-0164, “Annual Fee Calculation Method,” dated September 15, 2005.	ML052580332.
SECY-16-0097, “Fee Setting Improvements and Fiscal Year 2017 Proposed Fee Rule,” dated August 15, 2016.	ML16194A365.
Staff Requirements Memorandum for SECY-16-0097, dated October 19, 2016.	ML16293A902.
NUREG-1100, Volume 36, “Congressional Budget Justification: Fiscal Year 2021” (February 2020).	ML20024D764.
Process map, “NRC Form 527, Request for Information Related to Fees-for-Service”.	ML20104C055.
Process map, “NRC Form 529, Processing Dispute of Fees-For-Service Charges”.	ML20311A159.
NRC Form 529, “Dispute of Fees-For-Service Charges in Accordance with Title 10 of the <i>Code of Federal Regulations</i> (10 CFR) Processing Dispute of Fees-For-Service Charges § 170.51”.	ML20339A673.
FY 2021 Proposed Rule Work Papers	ML20346A173.
FY 2021 Proposed Fee Rule	ML20317A090.
FY 2021 Regulatory Flexibility Analysis	ML20321A229.
FY 2021 U.S. Nuclear Regulatory Commission Small Entity Compliance Guide.	ML20318A107.
SECY-19-0062, “Final Rule: Non-Power Production or Utilization Facility License Renewal,” dated June 17, 2019.	ML18031A000.
SECY-20-0111, “Rulemaking Plan to Amend the Receipts-Based NRC Size Standards,” dated December 7, 2020.	ML20268B327.
NRC Form 526, “Certification of Small Entity Status for the Purposes of Annual Fees Imposed under 10 CFR Part 171”.	https://www.nrc.gov/reading-rm/doc-collections/forms/nrc526.pdf .
OMB Circular A-25, “User Charges”	https://www.whitehouse.gov/sites/whitehouse.gov/files/omb/assets/OMB/circulars/a025/a025.html .
Fees Transformation Accomplishments	https://www.nrc.gov/about-nrc/regulatory/licensing/fees-transformation-accomplishments.html .

List of Subjects

10 CFR Part 15

Administrative practice and procedure, Claims, Debt collection.

10 CFR Part 170

Byproduct material, Import and export licenses, Intergovernmental relations, Non-payment penalties, Nuclear energy, Nuclear materials, Nuclear power plants and reactors, Source material, Special nuclear material.

10 CFR Part 171

Annual charges, Approvals, Byproduct material, Holders of certificates, Intergovernmental relations, Nonpayment penalties, Nuclear materials, Nuclear power plants and reactors, Registrations, Source material, Special nuclear material.

For the reasons set out in the preamble and under the authority of the Atomic Energy Act of 1954, as amended;

the Energy Reorganization Act of 1974, as amended; and 5 U.S.C. 552 and 553, the NRC is proposing to adopt the following amendments to 10 CFR parts 15, 170, and 171:

PART 15—DEBT COLLECTION PROCEDURES

■ 1. The authority citation for part 15 continues to read as follows:

Authority: Atomic Energy Act of 1954, secs. 161, 186 (42 U.S.C. 2201, 2236); Energy Reorganization Act of 1974, sec. 201 (42 U.S.C. 5841); 5 U.S.C. 5514; 26 U.S.C. 6402; 31 U.S.C. 3701, 3713, 3716, 3719, 3720A; 42 U.S.C. 664; 44 U.S.C. 3504 note; 31 CFR parts 900 through 904; 31 CFR part 285; E.O. 12146, 44 FR 42657, 3 CFR, 1979 Comp., p. 409; E.O. 12988, 61 FR 4729, 3 CFR, 1996 Comp., p. 157.

■ 2. Revise § 15.31 to read as follows:

§ 15.31 Disputed debts.

(a) *Submitting a dispute of debt.* For any type of charges assessed by the

NRC, a debtor may submit a dispute of debt within 45 days from the date of the initial demand letter. The debtor shall explain why the debt is incorrect in fact or in law and may support the explanation by affidavit, cancelled checks, or other relevant evidence. The dispute must be submitted to the Office of the Chief Financial Officer via the eBilling system, by email to FeeBillingInquiries.Resource@nrc.gov, or by mail to the Office of the Chief Financial Officer at: U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, Attn: Chief Financial Officer. For debt disputes related to charges for 10 CFR part 170 fees, the debtor must complete and submit an NRC Form 529 with the required information.

(b) *Notification of receipt.* Following receipt of the dispute, the NRC will acknowledge receipt to the contact person identified by the debtor.

(c) *Dispute review.* The NRC will consider the facts involved in the dispute and, if it considers it necessary, arrange for a conference during which the debtor may present evidence and any arguments in support of the debtor's position. If the debtor's dispute potentially raises an error, the NRC may extend the interest waiver period as described in § 15.37(j) pending a final determination of the existence or amount of the debt.

(d) *Dispute resolution.* If the NRC finds that the dispute has not identified an error, the NRC will notify the dispute contact. If the NRC finds that the dispute has identified an error, the NRC will:

- (1) Notify the dispute contact;
 - (2) Make corrections to the charges or information on the demand letter; and
 - (3) Issue a revised demand letter.
- 3. In § 15.37, revise paragraph (j) to read as follows:

§ 15.37 Interest, penalties, and administrative costs.

* * * * *

(j) The NRC may waive interest during the period a debt disputed under

§ 15.31 is under consideration by the NRC. However, this additional waiver is not automatic and must be requested before the expiration of the initial 30-day waiver period. The NRC may grant the additional waiver only when it finds the debtor's dispute potentially raises an error.

* * * * *

■ 4. In § 15.53, revise paragraphs (c) and (e) to read as follows:

§ 15.53 Reasons for suspending collection action.

* * * * *

(c) The debtor has requested a review of the debt or has disputed the debt.

* * * * *

(e)(1) The NRC shall suspend collection activity during the time required for consideration of the debtor's request for review or dispute of the debt, if the statute under which the request is sought prohibits the NRC from collecting the debt during that time.

(2) If the statute under which the request is sought does not prohibit collection activity pending consideration of the request, the NRC may use discretion, on a case-by-case basis, to suspend collection. Further, the NRC ordinarily should suspend collection action upon a request for review or dispute of the debt, if the NRC is prohibited by statute or regulation from issuing a refund of amounts collected prior to NRC consideration of the debtor's request. However, the NRC should not suspend collection when the NRC determines that the request for review or dispute of the debt is frivolous or was made primarily to delay collection.

* * * * *

PART 170—FEES FOR FACILITIES, MATERIALS, IMPORT AND EXPORT LICENSES, AND OTHER REGULATORY SERVICES UNDER THE ATOMIC ENERGY ACT OF 1954, AS AMENDED

■ 5. The authority citation for part 170 is revised to read as follows:

Authority: Atomic Energy Act of 1954, secs. 11, 161(w) (42 U.S.C. 2014, 2201(w)); Energy Reorganization Act of 1974, sec. 201 (42 U.S.C. 5841); 42 U.S.C. 2215; 31 U.S.C. 901, 902, 9701; 44 U.S.C. 3504 note.

■ 6. Revise § 170.1 to read as follows:

§ 170.1 Purpose.

The regulations in this part set out fees charged for licensing services,

inspection services, and special projects rendered by the Nuclear Regulatory Commission as authorized under title V of the Independent Offices Appropriation Act, 1952 (31 U.S.C. 9701(a)).

■ 7. In § 170.3:

- a. Remove the definition of "Balance of plants";
- b. Add a definition for "Non-power production or utilization facility" in alphabetical order; and
- c. Remove the definitions of "Nuclear Steam Supply System" and "Reference systems concept".

The addition reads as follows:

§ 170.3 Definitions.

* * * * *

Non-power production or utilization facility means a production or utilization facilities licensed under 10 CFR 50.21(a) or (c), or 10 CFR 50.22, as applicable, that is not a nuclear power reactor or production facility as defined under paragraphs (1) and (2) of the definition of "production facility" in 10 CFR 50.2.

* * * * *

§ 170.20 [Amended]

- 8. In § 170.20, remove the dollar amount "\$279" and add in its place the dollar amount "\$288".
- 9. In § 170.21, in the table, revise the table heading and the entry for "K. Import and export licenses" and remove footnote 6.

The revision reads as follows:

§ 170.21 Schedule of fees for production and utilization facilities, review of standard referenced design approvals, special projects, inspections and import and export licenses.

* * * * *

TABLE 1 TO § 170.21—SCHEDULE OF FACILITY FEES
[See footnotes at end of table]

Facility categories and type of fees	Fees ^{1 2}
* * * * *	
K. Import and export licenses:	
Licenses for the import and export only of production or utilization facilities or the export only of components for production or utilization facilities issued under 10 CFR part 110.	
1. Application for import or export of production or utilization facilities ⁴ (including reactors and other facilities) and exports of components requiring Commission and Executive Branch review, for example, actions under 10 CFR 110.40(b).	
Application—new license, or amendment; or license exemption request	\$20,200
2. Application for export of reactor and other components requiring Executive Branch review, for example, those actions under 10 CFR 110.41(a).	
Application—new license, or amendment; or license exemption request	4,300
3. Application for export of components requiring the assistance of the Executive Branch to obtain foreign government assurances.	
Application—new license, or amendment; or license exemption request	14,400
4. Application for export of facility components and equipment not requiring Commission or Executive Branch review, or obtaining foreign government assurances.	
Application—new license, or amendment; or license exemption request	4,900

TABLE 1 TO § 170.21—SCHEDULE OF FACILITY FEES—Continued
[See footnotes at end of table]

Facility categories and type of fees	Fees ^{1 2}
5. Minor amendment of any active export or import license, for example, to extend the expiration date, change domestic information, or make other revisions which do not involve any substantive changes to license terms or conditions or to the type of facility or component authorized for export and, therefore, do not require in-depth analysis or review or consultation with the Executive Branch, U.S. host state, or foreign government authorities. Minor amendment to license	4,300

¹ Fees will be charged for approvals issued under a specific exemption provision of the Commission's regulations under title 10 of the *Code of Federal Regulations* (e.g., 10 CFR 50.12, 10 CFR 73.5) and any other sections in effect now or in the future, regardless of whether the approval is in the form of a license amendment, letter of approval, safety evaluation report, or other form.

² Full cost fees will be determined based on the professional staff time and appropriate contractual support services expended. For applications currently on file and for which fees are determined based on the full cost expended for the review, the professional staff hours expended for the review of the application up to the effective date of the final rule will be determined at the professional rates in effect when the service was provided.

³ Inspections covered by this schedule are both routine and non-routine safety and safeguards inspections performed by NRC for the purpose of review or follow-up of a licensed program. Inspections are performed through the full term of the license to ensure that the authorized activities are being conducted in accordance with the Atomic Energy Act of 1954, as amended, other legislation, Commission regulations or orders, and the terms and conditions of the license. Non-routine inspections that result from third-party allegations will not be subject to fees.

⁴ Imports only of major components for end-use at NRC-licensed reactors are authorized under NRC general import license in 10 CFR 110.27.

⁵ Full cost fees will be assessed once NRC work on a Touhy request exceeds 50 hours, in accordance with § 170.12(d).

■ 10. In § 170.31, revise the table to read as follows:

§ 170.31 Schedule of fees for materials licenses and other regulatory services, including inspections, and import and export licenses.

* * * * *

TABLE 1 TO § 170.31—SCHEDULE OF MATERIALS FEES
[See footnotes at end of table]

Category of materials licenses and type of fees ¹	Fees ^{2 3}
1. Special nuclear material; ¹¹	
A. (1) Licenses for possession and use of U-235 or plutonium for fuel fabrication activities.	
(a) Strategic Special Nuclear Material (High Enriched Uranium) ⁶ [Program Code(s): 21213]	Full Cost.
(b) Low Enriched Uranium in Dispersible Form Used for Fabrication of Power Reactor Fuel ⁶ [Program Code(s): 21210].	Full Cost.
(2) All other special nuclear materials licenses not included in Category 1.A. (1) which are licensed for fuel cycle activities. ⁶	
(a) Facilities with limited operations ⁶ [Program Code(s): 21240, 21310, 21320]	Full Cost.
(b) Gas centrifuge enrichment demonstration facilities. ⁶ [Program Code(s): 21205]	Full Cost.
(c) Others, including hot cell facilities. ⁶ [Program Code(s): 21130, 21133]	Full Cost.
B. Licenses for receipt and storage of spent fuel and reactor-related Greater than Class C (GTCC) waste at an independent spent fuel storage installation (ISFSI) ⁶ [Program Code(s): 23200]	Full Cost.
C. Licenses for possession and use of special nuclear material of less than a critical mass as defined in § 70.4 in sealed sources contained in devices used in industrial measuring systems, including x-ray fluorescence analyzers. ⁴	
Application [Program Code(s): 22140]	\$1,300.
D. All other special nuclear material licenses, except licenses authorizing special nuclear material in sealed or unsealed form in combination that would constitute a critical mass, as defined in § 70.4 of this chapter, for which the licensee shall pay the same fees as those under Category 1.A. ⁴	
Application [Program Code(s): 22110, 22111, 22120, 22131, 22136, 22150, 22151, 22161, 22170, 23100, 23300, 23310].	\$2,700.
E. Licenses or certificates for construction and operation of a uranium enrichment facility ⁶ [Program Code(s): 21200]	Full Cost.
F. Licenses for possession and use of special nuclear material greater than critical mass as defined in § 70.4 of this chapter, for development and testing of commercial products, and other non-fuel-cycle activities. ^{4 6} [Program Code(s): 22155].	Full Cost.
2. Source material; ¹¹	
A. (1) Licenses for possession and use of source material for refining uranium mill concentrates to uranium hexafluoride or for deconverting uranium hexafluoride in the production of uranium oxides for disposal. ⁶ [Program Code(s): 11400].	Full Cost.
(2) Licenses for possession and use of source material in recovery operations such as milling, <i>in-situ</i> recovery, heap-leaching, ore buying stations, ion-exchange facilities, and in processing of ores containing source material for extraction of metals other than uranium or thorium, including licenses authorizing the possession of byproduct waste material (tailings) from source material recovery operations, as well as licenses authorizing the possession and maintenance of a facility in a standby mode. ⁶	
(a) Conventional and Heap Leach facilities ⁶ [Program Code(s): 11100]	Full Cost.
(b) Basic <i>In Situ</i> Recovery facilities ⁶ [Program Code(s): 11500]	Full Cost.
(c) Expanded <i>In Situ</i> Recovery facilities ⁶ [Program Code(s): 11510]	Full Cost.
(d) <i>In Situ</i> Recovery Resin facilities ⁶ [Program Code(s): 11550]	Full Cost.
(e) Resin Toll Milling facilities ⁶ [Program Code(s): 11555]	Full Cost.
(f) Other facilities ⁶ [Program Code(s): 11700]	Full Cost.

TABLE 1 TO § 170.31—SCHEDULE OF MATERIALS FEES—Continued

[See footnotes at end of table]

Category of materials licenses and type of fees ¹	Fees ^{2,3}
(3) Licenses that authorize the receipt of byproduct material, as defined in Section 11e.(2) of the Atomic Energy Act, from other persons for possession and disposal, except those licenses subject to the fees in Category 2.A.(2) or Category 2.A.(4) ⁶ [Program Code(s): 11600, 12000].	Full Cost.
(4) Licenses that authorize the receipt of byproduct material, as defined in Section 11e.(2) of the Atomic Energy Act, from other persons for possession and disposal incidental to the disposal of the uranium waste tailings generated by the licensee's milling operations, except those licenses subject to the fees in Category 2.A.(2) ⁶ [Program Code(s): 12010].	Full Cost.
B. Licenses which authorize the possession, use, and/or installation of source material for shielding. ^{7,8}	
Application [Program Code(s): 11210]	\$1,300.
C. Licenses to distribute items containing source material to persons exempt from the licensing requirements of part 40 of this chapter.	
Application [Program Code(s): 11240]	\$6,200.
D. Licenses to distribute source material to persons generally licensed under part 40 of this chapter.	
Application [Program Code(s): 11230, 11231]	\$2,900.
E. Licenses for possession and use of source material for processing or manufacturing of products or materials containing source material for commercial distribution.	
Application [Program Code(s): 11710]	\$2,700.
F. All other source material licenses.	
Application [Program Code(s): 11200, 11220, 11221, 11300, 11800, 11810, 11820]	\$2,700.
3. Byproduct material: ¹¹	
A. Licenses of broad scope for the possession and use of byproduct material issued under parts 30 and 33 of this chapter for processing or manufacturing of items containing byproduct material for commercial distribution. Number of locations of use: 1–5.	
Application [Program Code(s): 03211, 03212, 03213]	\$13,500.
(1) Licenses of broad scope for the possession and use of byproduct material issued under parts 30 and 33 of this chapter for processing or manufacturing of items containing byproduct material for commercial distribution. Number of locations of use: 6–20.	
Application [Program Code(s): 04010, 04012, 04014]	\$17,900.
(2) Licenses of broad scope for the possession and use of byproduct material issued under parts 30 and 33 of this chapter for processing or manufacturing of items containing byproduct material for commercial distribution. Number of locations of use: More than 20.	
Application [Program Code(s): 04011, 04013, 04015]	\$22,400.
B. Other licenses for possession and use of byproduct material issued under part 30 of this chapter for processing or manufacturing of items containing byproduct material for commercial distribution. Number of locations of use: 1–5.	
Application [Program Code(s): 03214, 03215, 22135, 22162]	\$3,700.
(1) Other licenses for possession and use of byproduct material issued under part 30 of this chapter for processing or manufacturing of items containing byproduct material for commercial distribution. Number of locations of use: 6–20.	
Application [Program Code(s): 04110, 04112, 04114, 04116]	\$5,000.
(2) Other licenses for possession and use of byproduct material issued under part 30 of this chapter for processing or manufacturing of items containing byproduct material for commercial distribution. Number of locations of use: more than 20.	
Application [Program Code(s): 04111, 04113, 04115, 04117]	\$6,200.
C. Licenses issued under §§ 32.72 and/or 32.74 of this chapter that authorize the processing or manufacturing and distribution or redistribution of radiopharmaceuticals, generators, reagent kits, and/or sources and devices containing byproduct material. This category does not apply to licenses issued to nonprofit educational institutions whose processing or manufacturing is exempt under § 170.11(a)(4). Number of locations of use: 1–5.	
Application [Program Code(s): 02500, 02511, 02513]	\$5,400.
(1) Licenses issued under §§ 32.72 and/or 32.74 of this chapter that authorize the processing or manufacturing and distribution or redistribution of radiopharmaceuticals, generators, reagent kits, and/or sources and devices containing byproduct material. This category does not apply to licenses issued to nonprofit educational institutions whose processing or manufacturing is exempt under § 170.11(a)(4). Number of locations of use: 6–20.	
Application [Program Code(s): 04210, 04212, 04214]	\$7,200.
(2) Licenses issued under §§ 32.72 and/or 32.74 of this chapter that authorize the processing or manufacturing and distribution or redistribution of radiopharmaceuticals, generators, reagent kits, and/or sources and devices containing byproduct material. This category does not apply to licenses issued to nonprofit educational institutions whose processing or manufacturing is exempt under § 170.11(a)(4). Number of locations of use: More than 20.	
Application [Program Code(s): 04211, 04213, 04215]	\$8,900.
D. [Reserved]	N/A.
E. Licenses for possession and use of byproduct material in sealed sources for irradiation of materials in which the source is not removed from its shield (self-shielded units).	
Application [Program Code(s): 03510, 03520]	\$3,300.
F. Licenses for possession and use of less than or equal to 10,000 curies of byproduct material in sealed sources for irradiation of materials in which the source is exposed for irradiation purposes. This category also includes underwater irradiators for irradiation of materials where the source is not exposed for irradiation purposes.	
Application [Program Code(s): 03511]	\$6,700.
G. Licenses for possession and use of greater than 10,000 curies of byproduct material in sealed sources for irradiation of materials in which the source is exposed for irradiation purposes. This category also includes underwater irradiators for irradiation of materials where the source is not exposed for irradiation purposes.	
Application [Program Code(s): 03521]	\$64,300.

TABLE 1 TO § 170.31—SCHEDULE OF MATERIALS FEES—Continued

[See footnotes at end of table]

Category of materials licenses and type of fees ¹	Fees ^{2,3}
H. Licenses issued under subpart A of part 32 of this chapter to distribute items containing byproduct material that require device review to persons exempt from the licensing requirements of part 30 of this chapter. The category does not include specific licenses authorizing redistribution of items that have been authorized for distribution to persons exempt from the licensing requirements of part 30 of this chapter.	
Application [Program Code(s): 03254, 03255, 03257]	\$6,900.
I. Licenses issued under subpart A of part 32 of this chapter to distribute items containing byproduct material or quantities of byproduct material that do not require device evaluation to persons exempt from the licensing requirements of part 30 of this chapter. This category does not include specific licenses authorizing redistribution of items that have been authorized for distribution to persons exempt from the licensing requirements of part 30 of this chapter.	
Application [Program Code(s): 03250, 03251, 03252, 03253, 03256]	\$15,300.
J. Licenses issued under subpart B of part 32 of this chapter to distribute items containing byproduct material that require sealed source and/or device review to persons generally licensed under part 31 of this chapter. This category does not include specific licenses authorizing redistribution of items that have been authorized for distribution to persons generally licensed under part 31 of this chapter.	
Application [Program Code(s): 03240, 03241, 03243]	\$2,100.
K. Licenses issued under subpart B of part 32 of this chapter to distribute items containing byproduct material or quantities of byproduct material that do not require sealed source and/or device review to persons generally licensed under part 31 of this chapter. This category does not include specific licenses authorizing redistribution of items that have been authorized for distribution to persons generally licensed under part 31 of this chapter.	
Application [Program Code(s): 03242, 03244]	\$1,200.
L. Licenses of broad scope for possession and use of byproduct material issued under parts 30 and 33 of this chapter for research and development that do not authorize commercial distribution. Number of locations of use: 1–5.	
Application [Program Code(s): 01100, 01110, 01120, 03610, 03611, 03612, 03613]	\$5,700.
(1) Licenses of broad scope for possession and use of byproduct material issued under parts 30 and 33 of this chapter for research and development that do not authorize commercial distribution. Number of locations of use: 6–20.	
Application [Program Code(s): 04610, 04612, 04614, 04616, 04618, 04620, 04622]	\$7,500.
(2) Licenses of broad scope for possession and use of byproduct material issued under parts 30 and 33 of this chapter for research and development that do not authorize commercial distribution. Number of locations of use: More than 20.	
Application [Program Code(s): 04611, 04613, 04615, 04617, 04619, 04621, 04623]	\$9,400.
M. Other licenses for possession and use of byproduct material issued under part 30 of this chapter for research and development that do not authorize commercial distribution.	
Application [Program Code(s): 03620]	\$8,600.
N. Licenses that authorize services for other licensees, except:	
(1) Licenses that authorize only calibration and/or leak testing services are subject to the fees specified in fee Category 3.P.; and (2) Licenses that authorize waste disposal services are subject to the fees specified in fee Categories 4.A., 4.B., and 4.C.	
Application [Program Code(s): 03219, 03225, 03226]	\$9,200.
O. Licenses for possession and use of byproduct material issued under part 34 of this chapter for industrial radiography operations. Number of locations of use: 1–5.	
Application [Program Code(s): 03310, 03320]	\$9,200.
(1) Licenses for possession and use of byproduct material issued under part 34 of this chapter for industrial radiography operations. Number of locations of use: 6–20.	
Application [Program Code(s): 04310, 04312]	\$12,200.
(2) Licenses for possession and use of byproduct material issued under part 34 of this chapter for industrial radiography operations. Number of locations of use: More than 20.	
Application [Program Code(s): 04311, 04313]	\$15,300.
P. All other specific byproduct material licenses, except those in Categories 4.A. through 9.D. ⁹ Number of locations of use: 1–5.	
Application [Program Code(s): 02400, 02410, 03120, 03121, 03122, 03123, 03124, 03130, 03140, 03220, 03221, 03222, 03800, 03810, 22130].	\$6,600.
(1). All other specific byproduct material licenses, except those in Categories 4.A. through 9.D. ⁹ Number of locations of use: 6–20.	
Application [Program Code(s): 04410, 04412, 04414, 04416, 04418, 04420, 04422, 04424, 04426, 04428, 04430, 04432, 04434, 04436, 04438].	\$8,800.
(2). All other specific byproduct material licenses, except those in Categories 4.A. through 9.D. ⁹ Number of locations of use: More than 20.	
Application [Program Code(s): 04411, 04413, 04415, 04417, 04419, 04421, 04423, 04425, 04427, 04429, 04431, 04433, 04435, 04437, 04439].	\$10,900.
Q. Registration of a device(s) generally licensed under part 31 of this chapter.	
Registration	\$800.
R. Possession of items or products containing radium-226 identified in 10 CFR 31.12 which exceed the number of items or limits specified in that section. ⁵	
1. Possession of quantities exceeding the number of items or limits in 10 CFR 31.12(a)(4) or (5) but less than or equal to 10 times the number of items or limits specified. Application [Program Code(s): 02700]	\$2,600.
2. Possession of quantities exceeding 10 times the number of items or limits specified in 10 CFR 31.12(a)(4) or (5). Application [Program Code(s): 02710]	\$2,600.
S. Licenses for production of accelerator-produced radionuclides.	
Application [Program Code(s): 03210]	\$14,700.

TABLE 1 TO § 170.31—SCHEDULE OF MATERIALS FEES—Continued

[See footnotes at end of table]

Category of materials licenses and type of fees ¹	Fees ^{2,3}
4. Waste disposal and processing: ¹¹	
A. Licenses specifically authorizing the receipt of waste byproduct material, source material, or special nuclear material from other persons for the purpose of contingency storage or commercial land disposal by the licensee; or licenses authorizing contingency storage of low-level radioactive waste at the site of nuclear power reactors; or licenses for receipt of waste from other persons for incineration or other treatment, packaging of resulting waste and residues, and transfer of packages to another person authorized to receive or dispose of waste material. Application [Program Code(s): 03231, 03233, 03236, 06100, 06101]	Full Cost.
B. Licenses specifically authorizing the receipt of waste byproduct material, source material, or special nuclear material from other persons for the purpose of packaging or repackaging the material. The licensee will dispose of the material by transfer to another person authorized to receive or dispose of the material. Application [Program Code(s): 03234]	\$7,200.
C. Licenses specifically authorizing the receipt of prepackaged waste byproduct material, source material, or special nuclear material from other persons. The licensee will dispose of the material by transfer to another person authorized to receive or dispose of the material. Application [Program Code(s): 03232]	\$5,200.
5. Well logging: ¹¹	
A. Licenses for possession and use of byproduct material, source material, and/or special nuclear material for well logging, well surveys, and tracer studies other than field flooding tracer studies. Application [Program Code(s): 03110, 03111, 03112]	\$4,800.
B. Licenses for possession and use of byproduct material for field flooding tracer studies. Licensing [Program Code(s): 03113]	Full Cost.
6. Nuclear laundries: ¹¹	
A. Licenses for commercial collection and laundry of items contaminated with byproduct material, source material, or special nuclear material. Application [Program Code(s): 03218]	\$22,900.
7. Medical licenses: ¹¹	
A. Licenses issued under parts 30, 35, 40, and 70 of this chapter for human use of byproduct material, source material, or special nuclear material in sealed sources contained in gamma stereotactic radiosurgery units, teletherapy devices, or similar beam therapy devices. Number of locations of use: 1–5. Application [Program Code(s): 02300, 02310]	\$11,500.
(1). Licenses issued under parts 30, 35, 40, and 70 of this chapter for human use of byproduct material, source material, or special nuclear material in sealed sources contained in gamma stereotactic radiosurgery units, teletherapy devices, or similar beam therapy devices. Number of locations of use: 6–20. Application [Program Code(s): 04510, 04512]	\$15,300.
(2). Licenses issued under parts 30, 35, 40, and 70 of this chapter for human use of byproduct material, source material, or special nuclear material in sealed sources contained in gamma stereotactic radiosurgery units, teletherapy devices, or similar beam therapy devices. Number of locations of use: More than 20. Application [Program Code(s): 04511, 04513]	\$19,100.
B. Licenses of broad scope issued to medical institutions or two or more physicians under parts 30, 33, 35, 40, and 70 of this chapter authorizing research and development, including human use of byproduct material, except licenses for byproduct material, source material, or special nuclear material in sealed sources contained in teletherapy devices. This category also includes the possession and use of source material for shielding when authorized on the same license. Number of locations of use: 1–5. Application [Program Code(s): 02110]	\$9,000.
(1). Licenses of broad scope issued to medical institutions or two or more physicians under parts 30, 33, 35, 40, and 70 of this chapter authorizing research and development, including human use of byproduct material, except licenses for byproduct material, source material, or special nuclear material in sealed sources contained in teletherapy devices. This category also includes the possession and use of source material for shielding when authorized on the same license. Number of locations of use: 6–20. Application [Program Code(s): 04710]	\$11,900.
(2). Licenses of broad scope issued to medical institutions or two or more physicians under parts 30, 33, 35, 40, and 70 of this chapter authorizing research and development, including human use of byproduct material, except licenses for byproduct material, source material, or special nuclear material in sealed sources contained in teletherapy devices. This category also includes the possession and use of source material for shielding when authorized on the same license. Number of locations of use: More than 20. Application [Program Code(s): 04711]	\$14,900.
C. Other licenses issued under parts 30, 35, 40, and 70 of this chapter for human use of byproduct material, source material, and/or special nuclear material, except licenses for byproduct material, source material, or special nuclear material in sealed sources contained in teletherapy devices. ¹⁰ Number of locations of use: 1–5. Application [Program Code(s): 02120, 02121, 02200, 02201, 02210, 02220, 02230, 02231, 02240, 22160]	\$10,900.
(1). Other licenses issued under parts 30, 35, 40, and 70 of this chapter for human use of byproduct material, source material, and/or special nuclear material, except licenses for byproduct material, source material, or special nuclear material in sealed sources contained in teletherapy devices. ¹⁰ Number of locations of use: 6–20. Application [Program Code(s): 04810, 04812, 04814, 04816, 04818, 04820, 04822, 04824, 04826, 04828]	\$9,000.
(2). Other licenses issued under parts 30, 35, 40, and 70 of this chapter for human use of byproduct material, source material, and/or special nuclear material, except licenses for byproduct material, source material, or special nuclear material in sealed sources contained in teletherapy devices. ¹⁰ Number of locations of use: More than 20. Application [Program Code(s): 04811, 04813, 04815, 04817, 04819, 04821, 04823, 04825, 04827, 04829]	\$11,300.
8. Civil defense: ¹¹	

TABLE 1 TO § 170.31—SCHEDULE OF MATERIALS FEES—Continued

[See footnotes at end of table]

Category of materials licenses and type of fees ¹	Fees ^{2,3}
A. Licenses for possession and use of byproduct material, source material, or special nuclear material for civil defense activities.	
Application [Program Code(s): 03710]	\$2,600.
9. Device, product, or sealed source safety evaluation:	
A. Safety evaluation of devices or products containing byproduct material, source material, or special nuclear material, except reactor fuel devices, for commercial distribution.	
Application—each device	\$17,900.
B. Safety evaluation of devices or products containing byproduct material, source material, or special nuclear material manufactured in accordance with the unique specifications of, and for use by, a single applicant, except reactor fuel devices.	
Application—each device	\$9,300.
C. Safety evaluation of sealed sources containing byproduct material, source material, or special nuclear material, except reactor fuel, for commercial distribution.	
Application—each source	\$5,500.
D. Safety evaluation of sealed sources containing byproduct material, source material, or special nuclear material, manufactured in accordance with the unique specifications of, and for use by, a single applicant, except reactor fuel.	
Application—each source	\$1,100.
10. Transportation of radioactive material:	
A. Evaluation of casks, packages, and shipping containers.	
1. Spent Fuel, High-Level Waste, and plutonium air packages	Full Cost.
2. Other Casks	Full Cost.
B. Quality assurance program approvals issued under part 71 of this chapter.	
1. Users and Fabricators.	
Application	\$4,300.
Inspections	Full Cost.
2. Users.	
Application	\$4,300.
Inspections	Full Cost.
C. Evaluation of security plans, route approvals, route surveys, and transportation security devices (including immobilization devices)	Full Cost.
11. Review of standardized spent fuel facilities	Full Cost.
12. Special projects:	
Including approvals, pre-application/licensing activities, and inspections.	
Application [Program Code: 25110]	Full Cost.
13. A. Spent fuel storage cask Certificate of Compliance	Full Cost.
B. Inspections related to storage of spent fuel under § 72.210 of this chapter	Full Cost.
14. Decommissioning/Reclamation: ¹¹	
A. Byproduct, source, or special nuclear material licenses and other approvals authorizing decommissioning, decontamination, reclamation, or site restoration activities under parts 30, 40, 70, 72, and 76 of this chapter, including master materials licenses (MMLs). The transition to this fee category occurs when a licensee has permanently ceased principal activities. [Program Code(s): 03900, 11900, 21135, 21215, 21325, 22200].	Full Cost.
B. Site-specific decommissioning activities associated with unlicensed sites, including MMLs, regardless of whether or not the sites have been previously licensed.	Full Cost.
15. Import and Export licenses:	
Licenses issued under part 110 of this chapter for the import and export only of special nuclear material, source material, tritium and other byproduct material, and the export only of heavy water, or nuclear grade graphite (fee categories 15.A. through 15.E.).	
A. Application for export or import of nuclear materials, including radioactive waste requiring Commission and Executive Branch review, for example, those actions under 10 CFR 110.40(b).	
Application—new license, or amendment; or license exemption request	\$20,200.
B. Application for export or import of nuclear material, including radioactive waste, requiring Executive Branch review, but not Commission review. This category includes applications for the export and import of radioactive waste and requires the NRC to consult with domestic host state authorities (i.e., Low-Level Radioactive Waste Compact Commission, the U.S. Environmental Protection Agency, etc.).	
Application—new license, or amendment; or license exemption request	\$4,300.
C. Application for export of nuclear material, for example, routine reloads of low enriched uranium reactor fuel and/or natural uranium source material requiring the assistance of the Executive Branch to obtain foreign government assurances.	
Application—new license, or amendment; or license exemption request	\$14,400.
D. Application for export or import of nuclear material not requiring Commission or Executive Branch review, or obtaining foreign government assurances.	
Application—new license, or amendment; or license exemption request	\$4,900.
E. Minor amendment of any active export or import license, for example, to extend the expiration date, change domestic information, or make other revisions which do not involve any substantive changes to license terms and conditions or to the type/quantity/chemical composition of the material authorized for export and, therefore, do not require in-depth analysis, review, or consultations with other Executive Branch, U.S. host state, or foreign government authorities.	
Minor amendment	\$4,900.
Licenses issued under part 110 of this chapter for the import and export only of Category 1 and Category 2 quantities of radioactive material listed in appendix P to part 110 of this chapter (fee categories 15.F. through 15.R.).	

Category 1 (Appendix P, 10 CFR Part 110) Exports:

TABLE 1 TO § 170.31—SCHEDULE OF MATERIALS FEES—Continued

[See footnotes at end of table]

Category of materials licenses and type of fees ¹	Fees ^{2,3}
F. Application for export of appendix P Category 1 materials requiring Commission review (e.g. exceptional circumstance review under 10 CFR 110.42(e)(4)) and to obtain one government-to-government consent for this process. For additional consent see fee category 15.I. Application—new license, or amendment; or license exemption request	\$17,300.
G. Application for export of appendix P Category 1 materials requiring Executive Branch review and to obtain one government-to-government consent for this process. For additional consents see fee category 15.I. Application—new license, or amendment; or license exemption request	\$8,600.
H. Application for export of appendix P Category 1 materials and to obtain one government-to-government consent for this process. For additional consents see fee category 15.I. Application—new license, or amendment; or license exemption request	\$4,900.
I. Requests for each additional government-to-government consent in support of an export license application or active export license. Application—new license, or amendment; or license exemption request	\$1,400.
<i>Category 2 (Appendix P, 10 CFR Part 110) Exports:</i>	
J. Application for export of appendix P Category 2 materials requiring Commission review (e.g. exceptional circumstance review under 10 CFR 110.42(e)(4)). Application—new license, or amendment; or license exemption request	\$17,300.
K. Applications for export of appendix P Category 2 materials requiring Executive Branch review. Application—new license, or amendment; or license exemption request	\$8,600.
L. Application for the export of Category 2 materials. Application—new license, or amendment; or license exemption request	\$2,900.
M. [Reserved]	N/A.
N. [Reserved]	N/A.
O. [Reserved]	N/A.
P. [Reserved]	N/A.
Q. [Reserved]	N/A.
<i>Minor Amendments (Category 1 and 2, Appendix P, 10 CFR Part 110, Export):</i>	
R. Minor amendment of any active export license, for example, to extend the expiration date, change domestic information, or make other revisions which do not involve any substantive changes to license terms and conditions or to the type/quantity/chemical composition of the material authorized for export and, therefore, do not require in-depth analysis, review, or consultations with other Executive Branch, U.S. host state, or foreign authorities. Minor amendment	\$1,400.
16. Reciprocity: Agreement State licensees who conduct activities under the reciprocity provisions of 10 CFR 150.20. Application	\$2,700.
17. Master materials licenses of broad scope issued to Government agencies. Application [Program Code(s): 03614]	Full Cost.
18. Department of Energy. A. Certificates of Compliance. Evaluation of casks, packages, and shipping containers (including spent fuel, high-level waste, and other casks, and plutonium air packages) B. Uranium Mill Tailings Radiation Control Act (UMTRCA) activities.	Full Cost. Full Cost.

¹ *Types of fees*—Separate charges, as shown in the schedule, will be assessed for pre-application consultations and reviews; applications for new licenses, approvals, or license terminations; possession-only licenses; issuances of new licenses and approvals; certain amendments and renewals to existing licenses and approvals; safety evaluations of sealed sources and devices; generally licensed device registrations; and certain inspections. The following guidelines apply to these charges:

(a) *Application and registration fees.* Applications for new materials licenses and export and import licenses; applications to reinstate expired, terminated, or inactive licenses, except those subject to fees assessed at full costs; applications filed by Agreement State licensees to register under the general license provisions of 10 CFR 150.20; and applications for amendments to materials licenses that would place the license in a higher fee category or add a new fee category must be accompanied by the prescribed application fee for each category.

(1) Applications for licenses covering more than one fee category of special nuclear material or source material must be accompanied by the prescribed application fee for the highest fee category.

(2) Applications for new licenses that cover both byproduct material and special nuclear material in sealed sources for use in gauging devices will pay the appropriate application fee for fee category 1.C. only.

(b) *Licensing fees.* Fees for reviews of applications for new licenses, renewals, and amendments to existing licenses, pre-application consultations and other documents submitted to the NRC for review, and project manager time for fee categories subject to full cost fees are due upon notification by the Commission in accordance with § 170.12(b).

(c) *Amendment fees.* Applications for amendments to export and import licenses must be accompanied by the prescribed amendment fee for each license affected. An application for an amendment to an export or import license or approval classified in more than one fee category must be accompanied by the prescribed amendment fee for the category affected by the amendment, unless the amendment is applicable to two or more fee categories, in which case the amendment fee for the highest fee category would apply.

(d) *Inspection fees.* Inspections resulting from investigations conducted by the Office of Investigations and nonroutine inspections that result from third-party allegations are not subject to fees. Inspection fees are due upon notification by the Commission in accordance with § 170.12(c).

(e) *Generally licensed device registrations under 10 CFR 31.5.* Submittals of registration information must be accompanied by the prescribed fee.

² Fees will be charged for approvals issued under a specific exemption provision of the Commission's regulations under title 10 of the *Code of Federal Regulations* (e.g., 10 CFR 30.11, 40.14, 70.14, 73.5, and any other sections in effect now or in the future), regardless of whether the approval is in the form of a license amendment, letter of approval, safety evaluation report, or other form. In addition to the fee shown, an applicant may be assessed an additional fee for sealed source and device evaluations as shown in fee categories 9.A. through 9.D.

³ Full cost fees will be determined based on the professional staff time multiplied by the appropriate professional hourly rate established in § 170.20 in effect when the service is provided, and the appropriate contractual support services expended.

⁴ Licensees paying fees under categories 1.A., 1.B., and 1.E. are not subject to fees under categories 1.C., 1.D. and 1.F. for sealed sources authorized in the same license, except for an application that deals only with the sealed sources authorized by the license.

⁵ Persons who possess radium sources that are used for operational purposes in another fee category are not also subject to the fees in this category. (This exception does not apply if the radium sources are possessed for storage only.)

⁶ Licensees subject to fees under fee categories 1.A., 1.B., 1.E., or 2.A. must pay the largest applicable fee and are not subject to additional fees listed in this table.

⁷ Licensees paying fees under 3.C., 3.C.1, or 3.C.2 are not subject to fees under 2.B. for possession and shielding authorized on the same license.

⁸ Licensees paying fees under 7.C. are not subject to fees under 2.B. for possession and shielding authorized on the same license.

⁹ Licensees paying fees under 3.N. are not subject to paying fees under 3.P., 3.P.1, or 3.P.2 for calibration or leak testing services authorized on the same license.

¹⁰ Licensees paying fees under 7.B., 7.B.1, or 7.B.2 are not subject to paying fees under 7.C., 7.C.1, or 7.C.2. for broad scope licenses issued under parts 30, 35, 40, and 70 of this chapter for human use of byproduct material, source material, and/or special nuclear material, except licenses for byproduct material, source material, or special nuclear material in sealed sources contained in teletherapy devices authorized on the same license.

¹¹ A materials license (or part of a materials license) that transitions to fee category 14.A is assessed full-cost fees under 10 CFR part 170, but is not assessed an annual fee under 10 CFR part 171. If only part of a materials license is transitioned to fee category 14.A, the licensee may be charged annual fees (and any applicable 10 CFR part 170 fees) for other activities authorized under the license that are not in decommissioning status.

■ 11. Revise § 170.51 to read as follows:

§ 170.51 Right to dispute assessed fees.

All debtors' disputes of fees assessed must be submitted in accordance with 10 CFR 15.31, "Disputed Debts."

PART 171—ANNUAL FEES FOR REACTOR LICENSES AND FUEL CYCLE LICENSES AND MATERIALS LICENSES, INCLUDING HOLDERS OF CERTIFICATES OF COMPLIANCE, REGISTRATIONS, AND QUALITY ASSURANCE PROGRAM APPROVALS AND GOVERNMENT AGENCIES LICENSED BY THE NRC

■ 12. The authority citation for part 171 is revised to read as follows:

Authority: Atomic Energy Act of 1954, secs. 11, 161(w), 223, 234 (42 U.S.C. 2014, 2201(w), 2273, 2282); Energy Reorganization Act of 1974, sec. 201 (42 U.S.C. 5841); 42 U.S.C. 2215; 44 U.S.C. 3504 note.

■ 13. Revise § 171.3 to read as follows:

§ 171.3 Scope.

The regulations in this part apply to any person holding an operating license for a non-power production or utilization facility issued under part 50 of this chapter that has provided notification to the NRC that the licensee has successfully completed startup testing, and to any person holding an operating license for a power reactor or small modular reactor licensed under 10 CFR part 50 or a combined license issued under 10 CFR part 52 that has provided notification to the NRC that the licensee has successfully completed power ascension testing. The regulations in this part also apply to any person holding a materials license as defined in this part, a Certificate of Compliance, a sealed source or device registration, a quality assurance program approval, and to a Government agency as defined in this part. Notwithstanding the other provisions in this section, the regulations in this part do not apply to uranium recovery and fuel facility licensees until after the Commission verifies through inspection that the facility has been constructed in

accordance with the requirements of the license.

■ 14. In § 171.5, revise the definition of "Budget authority" and add a definition for "Non-power production or utilization facility" in alphabetical order to read as follows:

§ 171.5 Definitions.

* * * * *

Budget authority means the authority, in the form of appropriations, provided by law and becoming available during the year, to enter into obligations that will result in immediate or future outlays involving Federal Government funds. The appropriation is an authorization by an Act of Congress that permits the NRC to incur obligations and to make payments out of the Treasury for specified purposes. Fees assessed pursuant to Public Law 115–439 are based on NRC budget authority.

* * * * *

Non-power production or utilization facility means a production or utilization facility licensed under 10 CFR 50.21(a) or (c), or 10 CFR 50.22, as applicable, that is not a nuclear power reactor or production facility as defined under paragraphs (1) and (2) of the definition of "production facility" in 10 CFR 50.2.

* * * * *

■ 15. In § 171.11, revise paragraph (c) to read as follows:

§ 171.11 Exemptions.

* * * * *

(c) The Commission may, upon application by an interested person or on its own initiative, grant an exemption from the requirements of this part that it determines is authorized by law and otherwise in the public interest.

* * * * *

■ 16. In § 171.15:

■ a. Revise the section heading;

■ b. Revise paragraphs (a), (b)(1), (b)(2) introductory text, (c)(1), and (c)(2) introductory text;

■ c. Remove paragraph (d);

■ d. Redesignate paragraphs (e) and (f) as paragraphs (d) and (e); and

■ e. Revise newly designated paragraphs (d) and (e).

The revisions read as follows:

§ 171.15 Annual fees: Non-power production or utilization licenses, reactor licenses, and independent spent fuel storage licenses.

(a) Each person holding an operating license for one or more non-power production or utilization facilities under 10 CFR part 50 that has provided notification to the NRC of the successful completion of startup testing; each person holding an operating license for a power reactor licensed under 10 CFR part 50 or a combined license under 10 CFR part 52 that has provided notification to the NRC of the successful completion of power ascension testing; each person holding a 10 CFR part 50 or 10 CFR part 52 power reactor license that is in decommissioning or possession only status, except those that have no spent fuel onsite; and each person holding a 10 CFR part 72 license who does not hold a 10 CFR part 50 or 10 CFR part 52 license and provides notification in accordance with 10 CFR 72.80(g), shall pay the annual fee for each license held during the Federal fiscal year in which the fee is due. This paragraph (a) does not apply to test or research reactors exempted under § 171.11(b).

(b)(1) The FY 2021 annual fee for each operating power reactor that must be collected by September 30, 2021, is \$4,804,000.

(2) The FY 2021 annual fees are comprised of a base annual fee for power reactors licensed to operate, a base spent fuel storage/reactor decommissioning annual fee, and associated additional charges. The activities comprising the spent fuel storage/reactor decommissioning base annual fee are shown in paragraphs (c)(2)(i) and (ii) of this section. The activities comprising the FY 2021 base annual fee for operating power reactors are as follows:

* * * * *

(c)(1) The FY 2021 annual fee for each power reactor holding a 10 CFR part 50

license or combined license issued under 10 CFR part 52 that is in a decommissioning or possession-only status and has spent fuel onsite, and for each independent spent fuel storage 10 CFR part 72 licensee who does not hold a 10 CFR part 50 license or a 10 CFR part 52 combined license, is \$246,000. (2) The FY 2021 annual fee is comprised of a base spent fuel storage/reactor decommissioning annual fee (which is also included in the operating power reactor annual fee shown in paragraph (b) of this section). The

activities comprising the FY 2021 spent fuel storage/reactor decommissioning rebaselined annual fee are:
* * * * *
(d)(1) Each person holding an operating license for an SMR issued under 10 CFR part 50 or a combined license issued under 10 CFR part 52 that has provided notification to the NRC of the successful completion startup testing, shall pay the annual fee for all licenses held for an SMR site. The annual fee will be determined using the

cumulative licensed thermal power rating of all SMR units and the bundled unit concept, during the fiscal year in which the fee is due. For a given site, the use of the bundled unit concept is independent of the number of SMR plants, the number of SMR licenses issued, or the sequencing of the SMR licenses that have been issued. (2) The annual fees for a small modular reactor(s) located on a single site to be collected by September 30 of each year, are as follows:

TABLE 1 TO PARAGRAPH (d)(2)

Bundled unit thermal power rating	Minimum fee	Variable fee	Maximum fee
First Bundled Unit:			
0 MWt ≤250 MWt	TBD	N/A	N/A
>250 MWt ≤2,000 MWt	TBD	TBD	N/A
>2,000 MWt ≤4,500 MWt	N/A	N/A	TBD
Additional Bundled Units:			
0 MWt ≤2,000 MWt	N/A	TBD	N/A
>2,000 MWt ≤4,500 MWt	N/A	N/A	TBD

(3) The annual fee for an SMR collected under this paragraph (d) is in lieu of any fee otherwise required under paragraph (b) of this section. The annual fee under this paragraph (d) covers the same activities listed for power reactor base annual fee and spent fuel storage/reactor decommissioning reactor fee. (e) The FY 2021 annual fee for licensees authorized to operate one or more non-power production or utilization facilities under a single 10 CFR part 50 license, unless the reactor

is exempted from fees under § 171.11(b), is \$78,700. ■ 17. In § 171.16, revise paragraphs (c) and (d) and remove paragraph (e). The revisions read as follows:
§ 171.16 Annual fees: Materials licensees, holders of certificates of compliance, holders of sealed source and device registrations, holders of quality assurance program approvals, and government agencies licensed by the NRC.
* * * * *
(c) A licensee who is required to pay an annual fee under this section, in

addition to 10 CFR part 72 licenses, may qualify as a small entity. If a licensee qualifies as a small entity and provides the Commission with the proper certification along with its annual fee payment, the licensee may pay reduced annual fees as shown in table 1 to paragraph (c). Failure to file a small entity certification in a timely manner could result in the receipt of a delinquent invoice requesting the outstanding balance due and/or denial of any refund that might otherwise be due. The small entity fees are as follows:

TABLE 1 TO PARAGRAPH (c)

NRC Small Entity Classification	Maximum annual fee per licensed category
Small Businesses Not Engaged in Manufacturing (Average gross receipts over last 3 completed fiscal years):	
\$485,000 to \$7 million	\$4,900
Less than \$485,000	1,000
Small Not-For-Profit Organizations (Annual Gross Receipts):	
\$485,000 to \$7 million	4,900
Less than \$485,000	1,000
Manufacturing Entities that Have An Average of 500 Employees or Fewer:	
35 to 500 employees	4,900
Fewer than 35 employees	1,000
Small Governmental Jurisdictions (Including publicly supported educational institutions) (Population):	
20,000 to 49,999	4,900
Fewer than 20,000	1,000
Educational Institutions that are not State or Publicly Supported, and have 500 Employees or Fewer:	
35 to 500 employees	4,900
Fewer than 35 employees	1,000

(d) The FY 2021 annual fees for materials licensees and holders of certificates, registrations, or approvals

subject to fees under this section are shown table 2 to paragraph (d):

TABLE 2 TO PARAGRAPH (d)—SCHEDULE OF MATERIALS ANNUAL FEES AND FEES FOR GOVERNMENT AGENCIES LICENSED BY NRC

[See footnotes at end of table]

Category of materials licenses	Annual fees ^{1 2 3}
1. Special nuclear material:	
A. (1) Licenses for possession and use of U-235 or plutonium for fuel fabrication activities.	
(a) Strategic Special Nuclear Material (High Enriched Uranium) ¹⁵ [Program Code(s): 21213]	\$4,835,000
(b) Low Enriched Uranium in Dispersible Form Used for Fabrication of Power Reactor Fuel ¹⁵ [Program Code(s): 21210]	1,639,000
(2) All other special nuclear materials licenses not included in Category 1.A.(1) which are licensed for fuel cycle activities.	
(a) Facilities with limited operations ¹⁵ [Program Code(s): 21310, 21320]	N/A
(b) Gas centrifuge enrichment demonstration facility ¹⁵ [Program Code(s): 21205]	N/A
(c) Others, including hot cell facility ¹⁵ [Program Code(s): 21130, 21133]	N/A
B. Licenses for receipt and storage of spent fuel and reactor-related Greater than Class C (GTCC) waste at an independent spent fuel storage installation (ISFSI) ^{11 15} [Program Code(s): 23200]	N/A
C. Licenses for possession and use of special nuclear material of less than a critical mass, as defined in §70.4 of this chapter, in sealed sources contained in devices used in industrial measuring systems, including x-ray fluorescence analyzers. [Program Code(s): 22140]	2,400
D. All other special nuclear material licenses, except licenses authorizing special nuclear material in sealed or unsealed form in combination that would constitute a critical mass, as defined in §70.4 of this chapter, for which the licensee shall pay the same fees as those under Category 1.A. [Program Code(s): 22110, 22111, 22120, 22131, 22136, 22150, 22151, 22161, 22170, 23100, 23300, 23310]	5,700
E. Licenses or certificates for the operation of a uranium enrichment facility ¹⁵ [Program Code(s): 21200]	2,107,000
F. Licenses for possession and use of special nuclear materials greater than critical mass, as defined in §70.4 of this chapter, for development and testing of commercial products, and other non-fuel cycle activities. ⁴ [Program Code: 22155]	4,300
2. Source material:	
A. (1) Licenses for possession and use of source material for refining uranium mill concentrates to uranium hexafluoride or for deconverting uranium hexafluoride in the production of uranium oxides for disposal. ¹⁵ [Program Code: 11400]	486,000
(2) Licenses for possession and use of source material in recovery operations such as milling, in-situ recovery, heap-leaching, ore buying stations, ion-exchange facilities and in-processing of ores containing source material for extraction of metals other than uranium or thorium, including licenses authorizing the possession of byproduct waste material (tailings) from source material recovery operations, as well as licenses authorizing the possession and maintenance of a facility in a standby mode.	
(a) Conventional and Heap Leach facilities. ¹⁵ [Program Code(s): 11100]	N/A
(b) Basic <i>In Situ</i> Recovery facilities. ¹⁵ [Program Code(s): 11500]	45,900
(c) Expanded <i>In Situ</i> Recovery facilities. ¹⁵ [Program Code(s): 11510]	N/A
(d) <i>In Situ</i> Recovery Resin facilities. ¹⁵ [Program Code(s): 11550]	⁵ N/A
(e) Resin Toll Milling facilities. ¹⁵ [Program Code(s): 11555]	⁵ N/A
(f) Other facilities. ⁶ [Program Code(s): 11700]	⁵ N/A
(3) Licenses that authorize the receipt of byproduct material, as defined in Section 11e.(2) of the Atomic Energy Act, from other persons for possession and disposal, except those licenses subject to the fees in Category 2.A.(2) or Category 2.A.(4). ¹⁵ [Program Code(s): 11600, 12000]	⁵ N/A
(4) Licenses that authorize the receipt of byproduct material, as defined in Section 11e.(2) of the Atomic Energy Act, from other persons for possession and disposal incidental to the disposal of the uranium waste tailings generated by the licensee's milling operations, except those licenses subject to the fees in Category 2.A.(2). ¹⁵ [Program Code(s): 12010]	N/A
B. Licenses which authorize the possession, use, and/or installation of source material for shielding. ^{16 17} Application [Program Code(s): 11210]	2,700
C. Licenses to distribute items containing source material to persons exempt from the licensing requirements of part 40 of this chapter. [Program Code: 11240]	8,900
D. Licenses to distribute source material to persons generally licensed under part 40 of this chapter. [Program Code(s): 11230 and 11231]	5,100
E. Licenses for possession and use of source material for processing or manufacturing of products or materials containing source material for commercial distribution. [Program Code: 11710]	6,300
F. All other source material licenses. [Program Code(s): 11200, 11220, 11221, 11300, 11800, 11810, 11820]	8,500
3. Byproduct material:	
A. Licenses of broad scope for possession and use of byproduct material issued under parts 30 and 33 of this chapter for processing or manufacturing of items containing byproduct material for commercial distribution. Number of locations of use: 1–5. [Program Code(s): 03211, 03212, 03213]	27,200
(1). Licenses of broad scope for the possession and use of byproduct material issued under parts 30 and 33 of this chapter for processing or manufacturing of items containing byproduct material for commercial distribution. Number of locations of use: 6–20. [Program Code(s): 03211, 03212, 03213]	36,200
(2). Licenses of broad scope for the possession and use of byproduct material issued under parts 30 and 33 of this chapter for processing or manufacturing of items containing byproduct material for commercial distribution. Number of locations of use: More than 20. [Program Code(s): 04011, 04013, 04015]	45,200
B. Other licenses for possession and use of byproduct material issued under part 30 of this chapter for processing or manufacturing of items containing byproduct material for commercial distribution. Number of locations of use: 1–5. [Program Code(s): 03214, 03215, 22135, 22162]	9,500
(1). Other licenses for possession and use of byproduct material issued under part 30 of this chapter for processing or manufacturing of items containing byproduct material for commercial distribution. Number of locations of use: 6–20. [Program Code(s): 04110, 04112, 04114, 04116]	12,700

TABLE 2 TO PARAGRAPH (d)—SCHEDULE OF MATERIALS ANNUAL FEES AND FEES FOR GOVERNMENT AGENCIES LICENSED BY NRC—Continued

[See footnotes at end of table]

Category of materials licenses	Annual fees ^{1 2 3}
(2). Other licenses for possession and use of byproduct material issued under part 30 of this chapter for processing or manufacturing of items containing byproduct material for commercial distribution. Number of locations of use: More than 20. [Program Code(s): 04111, 04113, 04115, 04117]	15,700
C. Licenses issued under §§ 32.72 and/or 32.74 of this chapter that authorize the processing or manufacturing and distribution or redistribution of radiopharmaceuticals, generators, reagent kits, and/or sources and devices containing byproduct material. This category does not apply to licenses issued to nonprofit educational institutions whose processing or manufacturing is exempt under § 170.11(a)(4). Number of locations of use: 1–5. [Program Code(s): 02500, 02511, 02513]	9,000
(1). Licenses issued under §§ 32.72 and/or 32.74 of this chapter that authorize the processing or manufacturing and distribution or redistribution of radiopharmaceuticals, generators, reagent kits, and/or sources and devices containing byproduct material. This category does not apply to licenses issued to nonprofit educational institutions whose processing or manufacturing is exempt under § 170.11(a)(4). Number of locations of use: 6–20. [Program Code(s): 04210, 04212, 04214]	11,900
(2). Licenses issued under §§ 32.72 and/or 32.74 of this chapter that authorize the processing or manufacturing and distribution or redistribution of radiopharmaceuticals, generators, reagent kits, and/or sources and devices containing byproduct material. This category does not apply to licenses issued to nonprofit educational institutions whose processing or manufacturing is exempt under § 170.11(a)(4). Number of locations of use: More than 20. [Program Code(s): 04211, 04213, 04215]	16,100
D. [Reserved]	⁵ N/A
E. Licenses for possession and use of byproduct material in sealed sources for irradiation of materials in which the source is not removed from its shield (self-shielded units) [Program Code(s): 03510, 03520]	9,900
F. Licenses for possession and use of less than or equal to 10,000 curies of byproduct material in sealed sources for irradiation of materials in which the source is exposed for irradiation purposes. This category also includes underwater irradiators for irradiation of materials in which the source is not exposed for irradiation purposes [Program Code(s): 03511]	8,800
G. Licenses for possession and use of greater than 10,000 curies of byproduct material in sealed sources for irradiation of materials in which the source is exposed for irradiation purposes. This category also includes underwater irradiators for irradiation of materials in which the source is not exposed for irradiation purposes [Program Code(s): 03521]	71,500
H. Licenses issued under subpart A of part 32 of this chapter to distribute items containing byproduct material that require device review to persons exempt from the licensing requirements of part 30 of this chapter, except specific licenses authorizing redistribution of items that have been authorized for distribution to persons exempt from the licensing requirements of part 30 of this chapter [Program Code(s): 03254, 03255, 03257]	8,600
I. Licenses issued under subpart A of part 32 of this chapter to distribute items containing byproduct material or quantities of byproduct material that do not require device evaluation to persons exempt from the licensing requirements of part 30 of this chapter, except for specific licenses authorizing redistribution of items that have been authorized for distribution to persons exempt from the licensing requirements of part 30 of this chapter [Program Code(s): 03250, 03251, 03252, 03253, 03256]	17,200
J. Licenses issued under subpart B of part 32 of this chapter to distribute items containing byproduct material that require sealed source and/or device review to persons generally licensed under part 31 of this chapter, except specific licenses authorizing redistribution of items that have been authorized for distribution to persons generally licensed under part 31 of this chapter [Program Code(s): 03240, 03241, 03243]	3,500
K. Licenses issued under subpart B of part 32 of this chapter to distribute items containing byproduct material or quantities of byproduct material that do not require sealed source and/or device review to persons generally licensed under part 31 of this chapter, except specific licenses authorizing redistribution of items that have been authorized for distribution to persons generally licensed under part 31 of this chapter [Program Code(s): 03242, 03244]	2,600
L. Licenses of broad scope for possession and use of byproduct material issued under parts 30 and 33 of this chapter for research and development that do not authorize commercial distribution. Number of locations of use: 1–5. [Program Code(s): 01100, 01110, 01120, 03610, 03611, 03612, 03613]	12,500
(1) Licenses of broad scope for possession and use of product material issued under parts 30 and 33 of this chapter for research and development that do not authorize commercial distribution. Number of locations of use: 6–20. [Program Code(s): 04610, 04612, 04614, 04616, 04618, 04620, 04622]	16,500
(2) Licenses of broad scope for possession and use of byproduct material issued under parts 30 and 33 of this chapter for research and development that do not authorize commercial distribution. Number of locations of use: More than 20. [Program Code(s): 04611, 04613, 04615, 04617, 04619, 04621, 04623]	20,500
M. Other licenses for possession and use of byproduct material issued under part 30 of this chapter for research and development that do not authorize commercial distribution [Program Code(s): 03620]	13,300
N. Licenses that authorize services for other licensees, except: (1) Licenses that authorize only calibration and/or leak testing services are subject to the fees specified in fee Category 3.P.; and (2) Licenses that authorize waste disposal services are subject to the fees specified in fee categories 4.A., 4.B., and 4.C. ²¹ [Program Code(s): 03219, 03225, 03226]	15,100
O. Licenses for possession and use of byproduct material issued under part 34 of this chapter for industrial radiography operations. This category also includes the possession and use of source material for shielding authorized under part 40 of this chapter when authorized on the same license Number of locations of use: 1–5. [Program Code(s): 03310, 03320]	29,000
(1). Licenses for possession and use of byproduct material issued under part 34 of this chapter for industrial radiography operations. This category also includes the possession and use of source material for shielding authorized under part 40 of this chapter when authorized on the same license. Number of locations of use: 6–20. [Program Code(s): 04310, 04312]	38,500

TABLE 2 TO PARAGRAPH (d)—SCHEDULE OF MATERIALS ANNUAL FEES AND FEES FOR GOVERNMENT AGENCIES LICENSED BY NRC—Continued

[See footnotes at end of table]

Category of materials licenses	Annual fees ^{1 2 3}
(2). Licenses for possession and use of byproduct material issued under part 34 of this chapter for industrial radiography operations. This category also includes the possession and use of source material for shielding authorized under part 40 of this chapter when authorized on the same license. Number of locations of use: More than 20. [Program Code(s): 04311, 04313]	48,300
P. All other specific byproduct material licenses, except those in Categories 4.A. through 9.D. ¹⁸ Number of locations of use: 1–5. [Program Code(s): 02400, 02410, 03120, 03121, 03122, 03123, 03124, 03140, 03130, 03220, 03221, 03222, 03800, 03810, 22130]	9,800
(1). All other specific byproduct material licenses, except those in Categories 4.A. through 9.D. ¹⁸ Number of locations of use: 6–20. [Program Code(s): 04410, 04412, 04414, 04416, 04418, 04420, 04422, 04424, 04426, 04428, 04430, 04432, 04434, 04436, 04438]	13,000
(2). All other specific byproduct material licenses, except those in Categories 4.A. through 9.D. ¹⁸ Number of locations of use: More than 20. [Program Code(s): 04411, 04413, 04415, 04417, 04419, 04421, 04423, 04425, 04427, 04429, 04431, 04433, 04435, 04437, 04439]	16,200
Q. Registration of devices generally licensed under part 31 of this chapter	¹³ N/A
R. Possession of items or products containing radium-226 identified in 10 CFR 31.12 which exceed the number of items or limits specified in that section: ¹⁴	
(1). Possession of quantities exceeding the number of items or limits in 10 CFR 31.12(a)(4), or (5) but less than or equal to 10 times the number of items or limits specified [Program Code(s): 02700]	6,000
(2). Possession of quantities exceeding 10 times the number of items or limits specified in 10 CFR 31.12(a)(4) or (5) [Program Code(s): 02710]	6,400
S. Licenses for production of accelerator-produced radionuclides [Program Code(s): 03210]	23,700
4. Waste disposal and processing:	
A. Licenses specifically authorizing the receipt of waste byproduct material, source material, or special nuclear material from other persons for the purpose of contingency storage or commercial land disposal by the licensee; or licenses authorizing contingency storage of low-level radioactive waste at the site of nuclear power reactors; or licenses for receipt of waste from other persons for incineration or other treatment, packaging of resulting waste and residues, and transfer of packages to another person authorized to receive or dispose of waste material. [Program Code(s): 03231, 03233, 03235, 03236, 06100, 06101]	22,400
B. Licenses specifically authorizing the receipt of waste byproduct material, source material, or special nuclear material from other persons for the purpose of packaging or repackaging the material. The licensee will dispose of the material by transfer to another person authorized to receive or dispose of the material. [Program Code(s): 03234]	15,700
C. Licenses specifically authorizing the receipt of prepackaged waste byproduct material, source material, or special nuclear material from other persons. The licensee will dispose of the material by transfer to another person authorized to receive or dispose of the material. [Program Code(s): 03232]	8,700
5. Well logging:	
A. Licenses for possession and use of byproduct material, source material, and/or special nuclear material for well logging, well surveys, and tracer studies other than field flooding tracer studies. [Program Code(s): 03110, 03111, 03112]	12,400
B. Licenses for possession and use of byproduct material for field flooding tracer studies. [Program Code(s): 03113]	⁵ N/A
6. Nuclear laundries:	
A. Licenses for commercial collection and laundry of items contaminated with byproduct material, source material, or special nuclear material. [Program Code(s): 03218]	27,900
7. Medical licenses:	
A. Licenses issued under parts 30, 35, 40, and 70 of this chapter for human use of byproduct material, source material, or special nuclear material in sealed sources contained in gamma stereotactic radiosurgery units, teletherapy devices, or similar beam therapy devices. This category also includes the possession and use of source material for shielding when authorized on the same license. ⁹ Number of locations of use: 1–5. [Program Code(s): 02300, 02310]	27,000
(1). Licenses issued under parts 30, 35, 40, and 70 of this chapter for human use of byproduct material, source material, or special nuclear material in sealed sources contained in gamma stereotactic radiosurgery units, teletherapy devices, or similar beam therapy devices. This category also includes the possession and use of source material for shielding when authorized on the same license. ⁹ Number of locations of use: 6–20. [Program Code(s): 04510, 04512]	35,900
(2). Licenses issued under parts 30, 35, 40, and 70 of this chapter for human use of byproduct material, source material, or special nuclear material in sealed sources contained in gamma stereotactic radiosurgery units, teletherapy devices, or similar beam therapy devices. This category also includes the possession and use of source material for shielding when authorized on the same license. ⁹ Number of locations of use: More than 20. [Program Code(s): 04511, 04513]	44,900
B. Licenses of broad scope issued to medical institutions or two or more physicians under parts 30, 33, 35, 40, and 70 of this chapter authorizing research and development, including human use of byproduct material, except licenses for byproduct material, source material, or special nuclear material in sealed sources contained in teletherapy devices. This category also includes the possession and use of source material for shielding when authorized on the same license. ⁹ Number of locations of use: 1–5. [Program Code(s): 02110]	36,800
(1). Licenses of broad scope issued to medical institutions or two or more physicians under parts 30, 33, 35, 40, and 70 of this chapter authorizing research and development, including human use of byproduct material, except licenses for byproduct material, source material, or special nuclear material in sealed sources contained in teletherapy devices. This category also includes the possession and use of source material for shielding when authorized on the same license. ⁹ Number of locations of use: 6–20. [Program Code(s): 04710]	49,000

TABLE 2 TO PARAGRAPH (d)—SCHEDULE OF MATERIALS ANNUAL FEES AND FEES FOR GOVERNMENT AGENCIES LICENSED BY NRC—Continued

[See footnotes at end of table]

Category of materials licenses	Annual fees ^{1 2 3}
(2). Licenses of broad scope issued to medical institutions or two or more physicians under parts 30, 33, 35, 40, and 70 of this chapter authorizing research and development, including human use of byproduct material, except licenses for byproduct material, source material, or special nuclear material in sealed sources contained in teletherapy devices. This category also includes the possession and use of source material for shielding when authorized on the same license. ⁹ Number of locations of use: More than 20. [Program Code(s): 04711]	61,200
C. Other licenses issued under parts 30, 35, 40, and 70 of this chapter for human use of byproduct material, source material, and/or special nuclear material, except licenses for byproduct material, source material, or special nuclear material in sealed sources contained in teletherapy devices. This category also includes the possession and use of source material for shielding when authorized on the same license. ^{9 19} Number of locations of use: 1–5. [Program Code(s): 02120, 02121, 02200, 02201, 02210, 02220, 02230, 02231, 02240, 22160]	16,700
(1). Other licenses issued under parts 30, 35, 40, and 70 of this chapter for human use of byproduct material, source material, and/or special nuclear material, except licenses for byproduct material, source material, or special nuclear material in sealed sources contained in teletherapy devices. This category also includes the possession and use of source material for shielding when authorized on the same license. ^{9 19} Number of locations of use: 6–20. [Program Code(s): 04810, 04812, 04814, 04816, 04818, 04820, 04822, 04824, 04826, 04828]	16,800
(2). Other licenses issued under parts 30, 35, 40, and 70 of this chapter for human use of byproduct material, source material, and/or special nuclear material, except licenses for byproduct material, source material, or special nuclear material in sealed sources contained in teletherapy devices. This category also includes the possession and use of source material for shielding when authorized on the same license. ^{9 19} Number of locations of use: More than 20. [Program Code(s): 04811, 04813, 04815, 04817, 04819, 04821, 04823, 04825, 04827, 04829]	20,800
8. Civil defense:	
A. Licenses for possession and use of byproduct material, source material, or special nuclear material for civil defense activities. [Program Code(s): 03710]	6,000
9. Device, product, or sealed source safety evaluation:	
A. Registrations issued for the safety evaluation of devices or products containing byproduct material, source material, or special nuclear material, except reactor fuel devices, for commercial distribution	17,800
B. Registrations issued for the safety evaluation of devices or products containing byproduct material, source material, or special nuclear material manufactured in accordance with the unique specifications of, and for use by, a single applicant, except reactor fuel devices	9,200
C. Registrations issued for the safety evaluation of sealed sources containing byproduct material, source material, or special nuclear material, except reactor fuel, for commercial distribution	5,500
D. Registrations issued for the safety evaluation of sealed sources containing byproduct material, source material, or special nuclear material, manufactured in accordance with the unique specifications of, and for use by, a single applicant, except reactor fuel	1,100
10. Transportation of radioactive material:	
A. Certificates of Compliance or other package approvals issued for design of casks, packages, and shipping containers.	
1. Spent Fuel, High-Level Waste, and plutonium air packages	⁶ N/A
2. Other Casks	⁶ N/A
B. Quality assurance program approvals issued under part 71 of this chapter.	
1. Users and Fabricators	⁶ N/A
2. Users	⁶ N/A
C. Evaluation of security plans, route approvals, route surveys, and transportation security devices (including immobilization devices)	⁶ N/A
11. Standardized spent fuel facilities	⁶ N/A
12. Special Projects [Program Code(s): 25110]	⁶ N/A
13. A. Spent fuel storage cask Certificate of Compliance	⁶ N/A
B. General licenses for storage of spent fuel under 10 CFR 72.210	¹² N/A
14. Decommissioning/Reclamation:	
A. Byproduct, source, or special nuclear material licenses and other approvals authorizing decommissioning, decontamination, reclamation, or site restoration activities under parts 30, 40, 70, 72, and 76 of this chapter, including master materials licenses (MMLs). The transition to this fee category occurs when a licensee has permanently ceased principal activities. [Program Code(s): 03900, 11900, 21135, 21215, 21325, 22200]	^{7 20} N/A
B. Site-specific decommissioning activities associated with unlicensed sites, including MMLs, whether or not the sites have been previously licensed	⁷ N/A
15. Import and Export licenses	⁸ N/A
16. Reciprocity	⁸ N/A
17. Master materials licenses of broad scope issued to Government agencies. ¹⁵ [Program Code(s): 03614]	337,000
18. Department of Energy:	
A. Certificates of Compliance	¹⁰ 996,000
B. Uranium Mill Tailings Radiation Control Act (UMTRCA) activities [Program Code(s): 03237, 03238]	81,000

¹ Annual fees will be assessed based on whether a licensee held a valid license with the NRC authorizing possession and use of radioactive material during the current FY. The annual fee is waived for those materials licenses and holders of certificates, registrations, and approvals who either filed for termination of their licenses or approvals or filed for possession only/storage licenses before October 1 of the current FY, and permanently ceased licensed activities entirely before this date. Annual fees for licensees who filed for termination of a license, downgrade of a license, or for a possession-only license during the FY and for new licenses issued during the FY will be prorated in accordance with the provisions of § 171.17. If a person holds more than one license, certificate, registration, or approval, the annual fee(s) will be assessed for each license, certificate, registration, or approval held by that person. For licenses that authorize more than one activity on a single license (e.g., human use and irradiator activities), annual fees will be assessed for each category applicable to the license.

² Payment of the prescribed annual fee does not automatically renew the license, certificate, registration, or approval for which the fee is paid. Renewal applications must be filed in accordance with the requirements of parts 30, 40, 70, 71, 72, or 76 of this chapter.

³ Each FY, fees for these materials licenses will be calculated and assessed in accordance with § 171.13 and will be published in the **Federal Register** for notice and comment.

⁴ Other facilities include licenses for extraction of metals, heavy metals, and rare earths.

⁵ There are no existing NRC licenses in these fee categories. If NRC issues a license for these categories, the Commission will consider establishing an annual fee for this type of license.

⁶ Standardized spent fuel facilities, 10 CFR parts 71 and 72 Certificates of Compliance and related Quality Assurance program approvals, and special reviews, such as topical reports, are not assessed an annual fee because the generic costs of regulating these activities are primarily attributable to users of the designs, certificates, and topical reports.

⁷ Licensees in this category are not assessed an annual fee because they are charged an annual fee in other categories while they are licensed to operate.

⁸ No annual fee is charged because it is not practical to administer due to the relatively short life or temporary nature of the license.

⁹ Separate annual fees will not be assessed for pacemaker licenses issued to medical institutions that also hold nuclear medicine licenses under fee categories 7.A, 7.A.1, 7.A.2, 7.B., 7.B.1, 7.B.2, 7.C, 7.C.1, or 7.C.2.

¹⁰ This includes Certificates of Compliance issued to the U.S. Department of Energy that are not funded from the Nuclear Waste Fund.

¹¹ See § 171.15(c).

¹² See § 171.15(c).

¹³ No annual fee is charged for this category because the cost of the general license registration program applicable to licenses in this category will be recovered through 10 CFR part 170 fees.

¹⁴ Persons who possess radium sources that are used for operational purposes in another fee category are not also subject to the fees in this category. (This exception does not apply if the radium sources are possessed for storage only.)

¹⁵ Licensees subject to fees under categories 1.A., 1.B., 1.E., 2.A., and licensees paying fees under fee category 17 must pay the largest applicable fee and are not subject to additional fees listed in this table.

¹⁶ Licensees paying fees under 3.C. are not subject to fees under 2.B. for possession and shielding authorized on the same license.

¹⁷ Licensees paying fees under 7.C. are not subject to fees under 2.B. for possession and shielding authorized on the same license.

¹⁸ Licensees paying fees under 3.N. are not subject to paying fees under 3.P., 3.P.1, or 3.P.2 for calibration or leak testing services authorized on the same license.

¹⁹ Licensees paying fees under 7.B., 7.B.1, or 7.B.2 are not subject to paying fees under 7.C., 7.C.1, or 7.C.2 for broad scope license licenses issued under parts 30, 35, 40, and 70 of this chapter for human use of byproduct material, source material, and/or special nuclear material, except licenses for byproduct material, source material, or special nuclear material in sealed sources contained in teletherapy devices authorized on the same license.

²⁰ No annual fee is charged for a materials license (or part of a materials license) that has transitioned to this fee category because the decommissioning costs will be recovered through 10 CFR part 170 fees, but annual fees may be charged for other activities authorized under the license that are not in decommissioning status.

²¹ Licensees paying fees under 4.A., 4.B. or 4.C. are not subject to paying fees under 3.N. licenses that authorize services for other licensees authorized on the same license.

■ 18. In § 171.17, revise paragraphs (a)(1) and (2) to read as follows:

§ 171.17 Proration.

(a) * * *

(1) *New licenses.* (i) The annual fees for new licenses for power reactors and small modular reactors that are subject to fees under this part, for which the licensee has notified the NRC on or after October 1 of a fiscal year (FY) that the licensee has successfully completed power ascension testing, are prorated on the basis of the number of days remaining in the FY. Thereafter, the full annual fee is due and payable each subsequent FY.

(ii) The annual fees for new licenses for non-power production or utilization facilities, 10 CFR part 72 licensees who do not hold 10 CFR part 50 or 10 CFR part 52 licenses, and materials licenses with annual fees of \$100,000 or greater for a single fee category for the current FY, that are subject to fees under this part and are granted a license to operate on or after October 1 of a FY, are prorated on the basis of the number of days remaining in the FY. Thereafter, the full annual fee is due and payable each subsequent FY.

(2) *Terminations.* The base operating power reactor annual fee for operating reactor licensees or the annual fee for small modular reactor licensees, who have requested amendment to withdraw operating authority permanently during

the FY will be prorated based on the number of days during the FY the license was in effect before docketing of the certifications for permanent cessation of operations and permanent removal of fuel from the reactor vessel or when a final legally effective order to permanently cease operations has come into effect. The spent fuel storage/reactor decommissioning annual fee for reactor licensees who permanently cease operations and have permanently removed fuel from the site during the FY will be prorated on the basis of the number of days remaining in the FY after docketing of both the certifications of permanent cessation of operations and permanent removal of fuel from the site. The spent fuel storage/reactor decommissioning annual fee will be prorated for those 10 CFR part 72 licensees who do not hold a 10 CFR part 50 or 10 CFR part 52 license who request termination of the 10 CFR part 72 license and permanently cease activities authorized by the license during the FY based on the number of days the license was in effect before receipt of the termination request. The annual fee for materials licenses with annual fees of \$100,000 or greater for a single fee category for the current FY will be prorated based on the number of days remaining in the FY when a termination request or a request for a possession-only license is received by the NRC, provided the licensee

permanently ceased licensed activities during the specified period. The annual fee for non-power production or utilization facilities will be prorated based on the number of days remaining in the FY when the authorization to operate the facility has been permanently removed from the license during the FY.

* * * * *

■ 19. Add § 171.26 to read as follows:

§ 171.26 Right to dispute assessed fees.

All debtors' disputes of fees assessed must be submitted in accordance with 10 CFR 15.31, "Disputed Debts."

Dated: February 12, 2021.

For the Nuclear Regulatory Commission.

Cherish K. Johnson,
Chief Financial Officer.

[FR Doc. 2021-03282 Filed 2-19-21; 8:45 am]

BILLING CODE 7590-01-P

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

[Docket No. FAA-2020-1184; Project Identifier MCAI-2020-01425-T]

RIN 2120-AA64

Airworthiness Directives; ATR-GIE Avions de Transport Régional Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to adopt a new airworthiness directive (AD) for certain ATR-GIE Avions de Transport Régional Model ATR72-212A airplanes. This proposed AD was prompted by a report of an engine electrical control #1 fault during flight caused by chafing damage on an electrical harness bundle. This proposed AD would require modifying the electrical harness routes and de-icing pipe coupling installations, as specified in a European Union Aviation Safety Agency (EASA) AD, which is proposed for incorporation by reference. The FAA is proposing this AD to address the unsafe condition on these products.

DATES: The FAA must receive comments on this proposed AD by April 8, 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 will be incorporated by reference (IBR) in this AD, contact the EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; telephone +49 221 8999 000; email ADS@easa.europa.eu; internet www.easa.europa.eu. You may find this IBR material on the EASA website at <https://ad.easa.europa.eu>. You may view this IBR material at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this

material at the FAA, call 206-231-3195. It is also available in the AD docket on the internet at <https://www.regulations.gov> by searching for and locating Docket No. FAA-2020-1184.

Examining the AD Docket

You may examine the AD docket on the internet at <https://www.regulations.gov> by searching for and locating Docket No. FAA-2020-1184; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this NPRM, any comments received, and other information. The street address for Docket Operations is listed above.

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

SUPPLEMENTARY INFORMATION:

Comments Invited

The FAA invites you to send any written relevant data, views, or arguments about this proposal. Send your comments to an address listed under **ADDRESSES**. Include "Docket No. FAA-2020-1184; Project Identifier MCAI-2020-01425-T" at the beginning of your comments. The most helpful comments reference a specific portion of the proposal, explain the reason for any recommended change, and include supporting data. The FAA will consider all comments received by the closing date and may amend the proposal because of those comments.

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

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 Shahram Daneshmandi, Aerospace Engineer, Large Aircraft Section, International Validation Branch, FAA, 2200 South 216th St., Des Moines, WA 98198; phone and fax: 206-231-3220; email: shahram.daneshmandi@faa.gov. Any commentary that the FAA receives which is not specifically designated as CBI will be placed in the public docket for this rulemaking.

Background

The EASA, which is the Technical Agent for the Member States of the European Union, has issued EASA AD 2020-0227, dated October 19, 2020 (EASA AD 2020-0227) (also referred to as the Mandatory Continuing Airworthiness Information, or the MCAI), to correct an unsafe condition for certain ATR-GIE Avions de Transport Régional Model ATR72-212A airplanes.

This proposed AD was prompted by a report of an engine electrical control #1 fault during flight caused by damage on an electrical harness bundle. It was determined that this event was due to the bundle chafing with an air duct clamp located behind the overhead bins in fuselage zone 253. Investigation revealed that the chafing damage was due to insufficient length between the air duct clamp and the harness bundle, leading to tension in the wire sheath. The FAA is proposing this AD to address such damage, which could result in wire failure and a short circuit, an uncontrolled fire, and consequent loss of multiple systems, possibly resulting in reduced controllability of the airplane. See the MCAI for additional background information.

Related Service Information Under 14 CFR Part 51

EASA AD 2020-0227 describes procedures for modifying the installation of the electrical harness routes 1M and 1S-1V, and rotating the de-icing pipe coupling installation. This material is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

FAA’s Determination and Requirements of This Proposed AD

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

Proposed AD Requirements

This proposed AD would require accomplishing the actions specified in EASA AD 2020–0227 described previously, as incorporated by reference, except for any differences

identified as exceptions in the regulatory text of this AD.

Explanation of Required Compliance Information

In the FAA’s ongoing efforts to improve the efficiency of the AD process, the FAA initially worked with Airbus and EASA to develop a process to use certain EASA ADs as the primary source of information for compliance with requirements for corresponding FAA ADs. The FAA has since coordinated with other manufacturers and civil aviation authorities (CAAs) to use this process. As a result, EASA AD 2020–0227 will be incorporated by reference in the FAA final rule. This proposed AD would, therefore, require compliance with EASA AD 2020–0227 in its entirety, through that incorporation, except for any differences identified as exceptions in the regulatory text of this proposed AD. Using common terms that are the same

as the heading of a particular section in the EASA AD does not mean that operators need comply only with that section. For example, where the AD requirement refers to “all required actions and compliance times,” compliance with this AD requirement is not limited to the section titled “Required Action(s) and Compliance Time(s)” in the EASA AD. Service information specified in EASA AD 2020–0227 that is required for compliance with EASA AD 2020–0227 will be available on the internet at <https://www.regulations.gov> by searching for and locating Docket No. FAA–2020–1184 after the FAA final rule is published.

Costs of Compliance

The FAA estimates that this proposed AD affects 3 airplanes of U.S. registry. The FAA estimates the following costs to comply with this proposed AD:

ESTIMATED COSTS FOR REQUIRED ACTIONS

Labor cost	Parts cost	Cost per product	Cost on U.S. operators
1 work-hour × \$85 per hour = \$85	\$20	\$105	\$315

Authority for This Rulemaking

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

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

Regulatory Findings

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

responsibilities among the various levels of government.

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

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

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

ATR–GIE Avions de Transport Régional:
Docket No. FAA–2020–1184; Project Identifier MCAI–2020–01425–T.

(a) Comments Due Date

The FAA must receive comments on this airworthiness directive (AD) action by April 8, 2021.

(b) Affected ADs

None.

(c) Applicability

This AD applies to ATR–GIE Avions de Transport Régional Model ATR72–212A airplanes, certificated in any category, as identified in European Union Aviation Safety Agency (EASA) AD 2020–0227, dated October 19, 2020 (EASA AD 2020–0227).

(d) Subject

Air Transport Association (ATA) of America Code 92, Electrical Routing.

(e) Reason

This AD was prompted by a report of an engine electrical control #1 fault during flight caused by chafing damage on an electrical harness bundle. The FAA is issuing this AD to address such damage, which could result in wire failure and a short circuit, an uncontrolled fire, and consequent loss of multiple systems, possibly resulting in reduced controllability of the airplane.

(f) Compliance

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

(g) Requirements

Except as specified in paragraph (h) of this AD: Comply with all required actions and compliance times specified in, and in accordance with, EASA AD 2020–0227.

(h) Exceptions to EASA AD 2020–0227

(1) Where EASA AD 2020–0227 refers to its effective date, this AD requires using the effective date of this AD.

(2) The “Remarks” section of EASA AD 2020–0227 does not apply to this AD.

(i) Other FAA AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs)*: The Manager, Large Aircraft Section, International Validation Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or responsible Flight Standards Office, as appropriate. If sending information directly to the Large Aircraft Section, International Validation Branch, send it to the attention of the person identified in paragraph (j)(2) of this AD. Information may be emailed to: 9-AVS-AIR-730-AMOC@faa.gov. Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the responsible Flight Standards Office.

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

(j) Related Information

(1) For information about EASA AD 2020–0227, contact the EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; telephone +49 221 8999 000; email ADs@easa.europa.eu; internet www.easa.europa.eu. You may find this EASA AD on the EASA website at <https://ad.easa.europa.eu>. You may view this material at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195. This material may be found in the AD docket on the internet at <https://www.regulations.gov> by searching for and locating Docket No. FAA–2020–1184.

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

Issued on January 23, 2021.

Gaetano A. Sciortino,

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

[FR Doc. 2021–01850 Filed 2–19–21; 8:45 am]

BILLING CODE 4910–13–P

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

[Docket No. FAA–2020–1178; Project Identifier MCAI–2020–01325–T]

RIN 2120–AA64

Airworthiness Directives; Airbus SAS Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to supersede Airworthiness Directive (AD) 2020–09–14, which applies to certain Airbus SAS Model A350–941 and –1041 airplanes. AD 2020–09–14 requires revising the existing airplane flight manual (AFM) to define a liquid-prohibited zone on the flight deck and provide procedures following liquid spillage on the center pedestal. AD 2020–09–14 also requires installing a removable integrated control panel (ICP) cover on the flight deck and further revising the AFM to include instructions for ICP cover use. Since the FAA issued AD 2020–09–14, a new, water-resistant ICP has been developed. This proposed AD would require installing a new, water-resistant ICP, which would allow removing the ICP protective cover and the AFM revisions, as specified in a European Union Aviation Safety Agency (EASA) AD, which will be incorporated by reference. The FAA is proposing this AD to address the unsafe condition on these products.

DATES: The FAA must receive comments on this proposed AD by April 8, 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 will be incorporated by reference (IBR) in this AD, contact the EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; telephone +49 221 8999 000; email ADs@easa.europa.eu; internet www.easa.europa.eu. You may find this IBR material on the EASA website at <https://ad.easa.europa.eu>. You may view this IBR material at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195. It is also available in the AD docket on the internet at <https://www.regulations.gov> by searching for and locating Docket No. FAA–2020–1178.

Examining the AD Docket

You may examine the AD docket on the internet at <https://www.regulations.gov> by searching for and locating Docket No. FAA–2020–1178; 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, Aerospace Engineer, Large Aircraft Section, International Validation Branch, FAA, 2200 South 216th St., Des Moines, WA 98198; telephone and fax 206–231–3218.

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–2020–1178; Project Identifier MCAI–2020–01325–T” at the beginning of your comments. The most helpful comments reference a specific portion of the proposal, explain the reason for any recommended change, and include supporting data. The FAA will consider all comments received by the closing date and may amend the proposal because of those comments.

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

received, without change, to <https://www.regulations.gov>, including any personal information you provide. The agency will also post a report summarizing each substantive verbal contact received about this proposed AD.

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, Aerospace Engineer, Large Aircraft Section, International Validation Branch, FAA, 2200 South 216th St., Des Moines, WA 98198; telephone and fax 206-231-3218. Any commentary that the FAA receives which is not specifically designated as CBI will be placed in the public docket for this rulemaking.

Discussion

The FAA issued AD 2020-09-14, Amendment 39-19910 (85 FR 30601, May 20, 2020) (AD 2020-09-14), which applies to certain Airbus SAS Model A350-941 and -1041 airplanes. AD 2020-09-14 requires revising the existing AFM to define a liquid-prohibited zone on the flight deck and provide procedures following liquid spillage on the center pedestal. AD 2020-09-14 also requires installing a removable ICP cover on the flight deck and further revising the AFM to include instructions for ICP cover use. AD 2020-09-14 superseded AD 2020-03-12, Amendment 39-19837 (85 FR 7863, February 12, 2020), which applied to all Airbus SAS Model A350-941 and -1041 airplanes. Both ADs required revising the existing AFM to define a liquid-prohibited zone on the flight deck and provide procedures following liquid spillage on the center pedestal.

The FAA issued AD 2020-09-14 to address the potential for dual-engine in-flight shutdown (IFSD), possibly resulting in a forced landing with

consequent damage to the airplane and injury to occupants.

Actions Since AD 2020-09-14 Was Issued

The preamble to AD 2020-09-14 explains that the FAA considers the requirements "interim action" and was considering further rulemaking. The FAA has now determined that further rulemaking is indeed necessary, and this proposed AD follows from that determination. Since the FAA issued AD 2020-09-14, a new, water-resistant ICP has been developed by the manufacturer to address the identified unsafe condition.

The EASA, which is the Technical Agent for the Member States of the European Union, has issued EASA AD 2020-0203, dated September 23, 2020 (EASA AD 2020-0203) (also referred to as the Mandatory Continuing Airworthiness Information, or the MCAI), to correct an unsafe condition for certain Airbus SAS Model A350-941 and -1041 airplanes. EASA AD 2020-0203 superseded EASA AD 2020-0090 (which corresponds to FAA AD 2020-09-14).

This proposed AD was prompted by the development of a new, water-resistant ICP to prevent damage from inadvertent liquid spillage on the center pedestal. The FAA is proposing this AD to address the potential for dual-engine IFSD, possibly resulting in a forced landing with consequent damage to the airplane and injury to occupants. See the MCAI for additional background information.

Explanation of Retained Requirements

Although this proposed AD does not explicitly restate the requirements of AD 2020-09-14, this proposed AD would retain all requirements of AD 2020-09-14 and revise the applicability. Those requirements are referenced in EASA AD 2020-0203, which, in turn, is referenced in paragraph (g) of this proposed AD.

Related Service Information Under 1 CFR Part 51

EASA AD 2020-0203 describes procedures for revising the AFM to define a liquid-prohibited zone on the flight deck and provide procedures following liquid spillage on the center pedestal, installing an ICP cover on the flight deck, and further revising the AFM to include instructions for ICP cover use. EASA AD 2020-0203 also describes procedures for installing a new, water-resistant ICP; removing the ICP protective cover; and removing the AFM revisions. This material is reasonably available because the

interested parties have access to it through their normal course of business or by the means identified in the ADDRESSES section.

FAA's Determination and Requirements of This Proposed AD

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

Proposed AD Requirements

This proposed AD would require accomplishing the actions specified in EASA AD 2020-0203 described previously, as incorporated by reference, except for any differences identified as exceptions in the regulatory text of this AD. The FAA also proposes to revise the applicability to exclude only airplanes on which Mod 116038 was installed in production. Additionally, for airplanes modified per Mod 116010, which introduced the removable protective ICP cover, certain AFM requirements specified in EASA AD 2020-0203 would not be required by this proposed AD.

Explanation of Required Compliance Information

In the FAA's ongoing efforts to improve the efficiency of the AD process, the FAA initially worked with Airbus and EASA to develop a process to use certain EASA ADs as the primary source of information for compliance with requirements for corresponding FAA ADs. The FAA has since coordinated with other manufacturers and civil aviation authorities (CAAs) to use this process. As a result, EASA AD 2020-0203 will be incorporated by reference in the FAA final rule. This proposed AD would, therefore, require compliance with EASA AD 2020-0203 in its entirety, through that incorporation, except for any differences identified as exceptions in the regulatory text of this proposed AD. Using common terms that are the same as the heading of a particular section in the EASA AD does not mean that operators need comply only with that section. For example, where the AD requirement refers to "all required actions and compliance times," compliance with this AD requirement is

not limited to the section titled “Required Action(s) and Compliance Time(s)” in the EASA AD. Service information specified in EASA AD 2020–0203 that is required for compliance with EASA AD 2020–0203

will be available on the internet at <https://www.regulations.gov> by searching for and locating Docket No. FAA–2020–1178 after the FAA final rule is published.

Costs of Compliance

The FAA estimates that this proposed AD affects 15 airplanes of U.S. registry. The FAA estimates the following costs to comply with this proposed AD:

ESTIMATED COSTS FOR REQUIRED ACTIONS(*)

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Retained AFM revision from AD 2020–09–14.	1 work-hour × \$85 per hour = \$85	\$0	\$85	\$1,105.
Retained installation from AD 2020–09–14	2 work-hours × \$85 per hour = \$170	(*)	\$170	\$2,210.
New proposed actions	Up to 42 work-hours × \$85 per hour = Up to \$3,570.	(*)	Up to \$3,570	Up to \$53,550.

* The FAA has received no definitive data regarding cost estimates for these parts.

The FAA has received no definitive data on which to base the cost estimates for the on-condition actions specified in this proposed AD.

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

Authority for This Rulemaking

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

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

Regulatory Findings

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 2020–09–14, Amendment 39–19910 (85 FR 30601, May 20, 2020); and
 - b. Adding the following new AD:

Airbus SAS: Docket No. FAA–2020–1178; Project Identifier MCAI–2020–01325–T.

(a) Comments Due Date

The FAA must receive comments for this airworthiness directive (AD) action by April 8, 2021.

(b) Affected ADs

This AD replaces AD 2020–09–14, Amendment 39–19910 (85 FR 30601, May 20, 2020) (AD 2020–09–14).

(c) Applicability

This AD applies to Airbus SAS Model A350–941 and –1041 airplanes, certificated

in any category, as identified in European Union Aviation Safety Agency (EASA) AD 2020–0203, dated September 23, 2020 (EASA AD 2020–0203).

(d) Subject

Air Transport Association (ATA) of America Code 31, Instruments.

(e) Reason

This AD was prompted by two reports of abnormal operation of the components of the ENG START panel or Electronic Centralized Aircraft Monitoring (ECAM) Control Panel (ECP) due to liquid spillage in the system, and the subsequent uncommanded engine in-flight shutdown (IFSD) of one engine in each case. This AD was also prompted by the development of a new, water-resistant integrated control panel (ICP) that will address this unsafe condition. The FAA is issuing this AD to address the potential for dual-engine IFSD, possibly resulting in a forced landing with consequent damage to the airplane and injury to occupants.

(f) Compliance

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

(g) Requirements

Except as specified in paragraph (h) of this AD: Comply with all required actions and compliance times specified in, and in accordance with, EASA AD 2020–0203.

(h) Exceptions to EASA AD 2020–0203

- (1) Where EASA AD 2020–0203 refers to its effective date, this AD requires using the effective date of this AD.
- (2) Where EASA AD 2020–0203 refers to the effective date of EASA AD 2020–0020E, this AD requires using February 14, 2020 (the effective date of AD 2020–03–12).
- (3) Where EASA AD 2020–0203 refers to the effective date of EASA AD 2020–0090, this AD requires using June 4, 2020 (the effective date of AD 2020–09–14).
- (4) Where paragraph (7) of EASA AD 2020–0203 specifies removing the AFM [airplane flight manual] changes “as required by paragraph (2) or (4) of [the MCAI], as applicable,” this AD requires removing the AFM changes required by paragraph (1), (2), (4), or (5), as applicable, from the AFM.

(5) For airplanes with Mod 116010: This AD does not require the actions specified in paragraph (1), (3), and (4) of EASA AD 2020–0203, as specified in paragraph (g) of this AD.

(6) “Note 1” of EASA AD 2020–0203 does not apply to this AD. However, after the actions required by EASA AD 2020–0203, paragraphs (3) to (5), as required by paragraph (g) of this AD, have been accomplished on an airplane, that airplane may be operated with a damaged or missing ICP removable cover, provided provisions that address the ICP removable cover are included in the operator’s approved minimum equipment list (MEL). After the actions required by EASA AD 2020–0203, paragraph (6), as required by paragraph (g) of this AD, have been accomplished on an airplane, that airplane may be operated without an ICP removable cover, provided provisions that address the ICP removable cover are removed from the operator’s approved MEL.

(7) The “Remarks” section of EASA AD 2020–0203 does not apply to this AD.

(i) Special Flight Permit

Special flight permits may be issued in accordance with 14 CFR 21.197 and 21.199 to operate the airplane to a location where the actions specified in this AD can be accomplished (if the operator elects to do so), provided a removable ICP cover is installed on the flight deck.

(j) Other FAA AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs)*: The Manager, Large Aircraft Section, International Validation Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or responsible Flight Standards Office, as appropriate. If sending information directly to the Large Aircraft Section, International Validation Branch, send it to the attention of the person identified in paragraph (k)(2) of this AD. Information may be emailed to: 9-AVS-AIR-730-AMOC@faa.gov. Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the responsible Flight Standards Office.

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

(3) *Required for Compliance (RC)*: For any service information referenced in EASA AD 2020–0203 that contains RC procedures and tests: RC procedures and tests must be done to comply with this AD; any procedures or tests that are not identified as RC are recommended. Those procedures and tests that are not identified as RC may be deviated from using accepted methods in accordance

with the operator’s maintenance or inspection program without obtaining approval of an AMOC, provided the procedures and tests identified as RC can be done and the airplane can be put back in an airworthy condition. Any substitutions or changes to procedures or tests identified as RC require approval of an AMOC.

(k) Related Information

(1) For information about EASA AD 2020–0203, contact the EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; telephone +49 221 8999 000; email ADs@easa.europa.eu; internet www.easa.europa.eu. You may find this EASA AD on the EASA website at <https://ad.easa.europa.eu>. You may view this material at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195. This material may be found in the AD docket on the internet at <https://www.regulations.gov> by searching for and locating Docket No. FAA–2020–1178.

(2) For more information about this AD, contact Kathleen Arrigotti, Aerospace Engineer, Large Aircraft Section, International Validation Branch, FAA, 2200 South 216th St., Des Moines, WA 98198; telephone and fax 206–231–3218.

Issued on January 19, 2021.

Lance T. Gant,

Director, Compliance & Airworthiness Division, Aircraft Certification Service.

[FR Doc. 2021–01609 Filed 2–19–21; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2020–1179; Project Identifier AD–2020–00818–E]

RIN 2120–AA64

Airworthiness Directives; General Electric Company Turbofan Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to adopt a new airworthiness directive (AD) for all General Electric Company (GE) CF6–80A, CF6–80A1, CF6–80A2, CF6–80A3, CF6–80C2A1, CF6–80C2A2, CF6–80C2A3, CF6–80C2A5, CF6–80C2A5F, CF6–80C2A8, CF6–80C2B1, CF6–80C2B1F, CF6–80C2B1F1, CF6–80C2B1F2, CF6–80C2B2, CF6–80C2B2F, CF6–80C2B3F, CF6–80C2B4, CF6–80C2B4F, CF6–80C2B5F, CF6–80C2B6, CF6–80C2B6F, CF6–80C2B6FA, CF6–80C2B7F, CF6–80C2B8F, CF6–

80C2D1F, CF6–80C2K1F and CF6–80C2L1F model turbofan engines. This proposed AD was prompted by an inspection by the manufacturer that revealed cracking of the high-pressure turbine (HPT) rotor stage 1 disk. This proposed AD would require visual inspection and fluorescent penetrant inspection (FPI) of the HPT thermal shield and, if cracking is detected, removal from service of the HPT thermal shield, HPT rotor stage 1 disk and HPT rotor stage 2 disk. 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 April 8, 2021.

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

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

- *Fax:* (202) 493–2251.

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

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

For service information identified in this NPRM, contact General Electric Company, 1 Neumann Way, Cincinnati, OH 45215; phone: (513) 552–3272; email: aviation.fleetsupport@ae.ge.com; website: www.ge.com. You may view this service information at the FAA, Airworthiness Products Section, Operational Safety Branch, 1200 District Avenue, Burlington, MA 01803. For information on the availability of this material at the FAA, call (781) 238–7759.

Examining the AD Docket

You may examine the AD docket at <https://www.regulations.gov> by searching for and locating Docket No. FAA–2020–1179; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this NPRM, any comments received, and other information. The street address for Docket Operations is listed above.

FOR FURTHER INFORMATION CONTACT:

Kevin M. Clark, Aviation Safety Engineer, ECO Branch, FAA, 1200 District Avenue, Burlington, MA 01803; phone: (781) 238–7088; fax: (781) 238–7199; email: Kevin.M.Clark@faa.gov.

SUPPLEMENTARY INFORMATION:

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-2020-1179; Project Identifier AD-2020-00818-E" at the beginning of your comments. The most helpful comments reference a specific portion of the proposal, explain the reason for any recommended change, and include supporting data. The FAA will consider all comments received by the closing date and may amend this proposal because of those comments.

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

Confidential Business Information

CBI is commercial or financial information that is both customarily and actually treated as private by its owner. Under the Freedom of Information Act (FOIA) (5 U.S.C. 552), CBI is exempt from public disclosure. If your comments responsive to this NPRM contain commercial or financial information that is customarily treated as private, that you actually treat as

private, and that is relevant or responsive to this NPRM, it is important that you clearly designate the submitted comments as CBI. Please mark each page of your submission containing CBI as "PROPIN." The FAA will treat such marked submissions as confidential under the FOIA, and they will not be placed in the public docket of this NPRM. Submissions containing CBI should be sent to Kevin M. Clark, Aviation Safety Engineer, ECO Branch, FAA, 1200 District Avenue, Burlington, MA 01803. Any commentary that the FAA receives which is not specifically designated as CBI will be placed in the public docket for this rulemaking.

Background

The FAA was notified by the manufacturer that a crack on the HPT rotor stage 1 disk was found during an inspection. Subsequent investigation by the manufacturer determined that the crack on the HPT rotor stage 1 disk was caused by increased stress on the HPT rotor stage 1 disk as a result of flange-to-flange cracking on the HPT thermal shield. This condition, if not addressed, could result in failure of the HPT rotor stage 1 disk, failure of the HPT rotor stage 2 disk, uncontained release of the HPT rotor stage 1 and stage 2 disks, damage to the engine, and damage to the airplane.

FAA's Determination

The FAA is issuing this NPRM after determining that the unsafe condition

described previously is likely to exist or develop on other products of the same type design.

Related Service Information

The FAA reviewed ESM 72-53-00 High Pressure Turbine Rotor Assembly—Disassembly (ESM 72-53-00) from the GE CF6-80A Engine Manual GEK72501—Rev 89, dated February 15, 2020. ESM 72-53-00 describes procedures for the removal of the HPT thermal shield, the HPT rotor stage 1 disk, and the HPT rotor stage 2 disk.

Proposed AD Requirements in This NPRM

This proposed AD would require repetitive visual inspection and FPI of the HPT thermal shield at every piece part opportunity of the HPT rotor stage 1 disk, HPT rotor stage 2 disk, or the HPT thermal shield. Depending on the results of the inspections, this proposed AD requires the removal from service of the HPT thermal shield, HPT rotor stage 1 disk, and the HPT rotor stage 2 disk.

Costs of Compliance

The FAA estimates that this AD, if adopted as proposed, would affect 1,084 engines installed on airplanes of U.S. registry.

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

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Perform FPI and visual inspection of HPT thermal shield.	2 work-hours × \$85 per hour = \$170	\$0	\$170	\$184,280

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

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

number of aircraft that might need these replacements.

ON-CONDITION COSTS

Action	Labor cost	Parts cost	Cost per product
Replace HPT thermal shield	2 work-hours × \$85 per hour = \$170	\$209,600	\$209,770
Replace HPT rotor stage 1 disk	2 work-hours × \$85 per hour = \$170	799,700	799,870
Replace HPT rotor stage 2 disk	2 work-hours × \$85 per hour = \$170	364,600	364,770

Authority for This Rulemaking

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

Aviation Programs, describes in more detail the scope of the Agency's authority.

The FAA is issuing this rulemaking under the authority described in Subtitle VII, Part A, Subpart III, Section

44701: General requirements. Under that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds

necessary for safety in air commerce. This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

Regulatory Findings

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

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

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

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

General Electric Company: Docket No. FAA–2020–1179; Project Identifier AD–2020–00818–E.

(a) Comments Due Date

The FAA must receive comments on this airworthiness directive (AD) by April 8, 2021.

(b) Affected ADs

None.

(c) Applicability

This AD applies to all General Electric Company (GE) CF6–80A, CF6–80A1, CF6–80A2, CF6–80A3, CF6–80C2A1, CF6–80C2A2, CF6–80C2A3, CF6–80C2A5, CF6–80C2A5F, CF6–80C2A8, CF6–80C2B1, CF6–80C2B1F, CF6–80C2B1F1, CF6–80C2B1F2,

CF6–80C2B2, CF6–80C2B2F, CF6–80C2B3F, CF6–80C2B4, CF6–80C2B4F, CF6–80C2B5F, CF6–80C2B6, CF6–80C2B6F, CF6–80C2B6FA, CF6–80C2B7F, CF6–80C2B8F, CF6–80C2D1F, CF6–80C2K1F and CF6–80C2L1F model turbofan engines.

(d) Subject

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

(e) Unsafe Condition

This AD was prompted by an inspection by the manufacturer that revealed cracking of the high-pressure turbine (HPT) rotor stage 1 disk, caused by initial flange-to-flange cracking on the HPT thermal shield between the HPT rotor stage 1 disk and the HPT rotor stage 2 disk. The FAA is issuing this AD to prevent failure of the HPT rotor stage 1 disk and the HPT rotor stage 2 disk. The unsafe condition, if not addressed, could result in uncontained release of the HPT rotor stage 1 and stage 2 disks, damage to the engine, and damage to the airplane.

(f) Compliance

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

(g) Required Actions

(1) After the effective date of this AD, at every piece-part exposure of the HPT rotor stage 1 disk, HPT rotor stage 2 disk, or the HPT thermal shield, perform a visual inspection and a fluorescent penetrant inspection (FPI) of the HPT thermal shield.

(2) During any inspection required by paragraph (g)(1) of this AD, if a crack extending through either the forward or aft flange of the HPT thermal shield is detected, remove the HPT thermal shield, the HPT rotor stage 1 disk, and the HPT rotor stage 2 disk from service.

(h) Installation Prohibition

Do not install onto any engine an HPT rotor stage 1 disk or HPT rotor stage 2 disk that was removed from service due to the requirements of paragraph (g)(2) of this AD.

(i) Definition

For the purpose of this AD, "piece-part exposure" is when the HPT rotor stage 1 disk, HPT rotor stage 2 disk, or HPT thermal shield is separated from their mating rotor parts within the HPT rotor module.

(j) Alternative Methods of Compliance (AMOCs)

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

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

(k) Related Information

(1) For more information about this AD, contact Kevin M. Clark, Aviation Safety Engineer, ECO Branch, FAA, 1200 District Avenue, Burlington, MA 01803; phone: (781) 238–7088; fax: (781) 238–7199; email: Kevin.M.Clark@faa.gov.

(2) For service information identified in this AD, contact General Electric Company, 1 Neumann Way, Cincinnati, OH 45215; phone: (513) 552–3272; email: aviation.fleetsupport@ae.ge.com; website: www.ge.com. You may view this referenced service information at the FAA, Airworthiness Products Section, Operational Safety Branch, 1200 District Avenue, Burlington, MA 01803. For information on the availability of this material at the FAA, call (781) 238–7759.

Issued on January 20, 2021.

Lance T. Gant,

Director, Compliance & Airworthiness Division, Aircraft Certification Service.

[FR Doc. 2021–01814 Filed 2–19–21; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2021–0014; Project Identifier MCAI–2020–01457–T]

RIN 2120–AA64

Airworthiness Directives; Airbus SAS Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to adopt a new airworthiness directive (AD) for certain Airbus SAS Model A330–200 Freighter series airplanes. This proposed AD was prompted by a report indicating occurrences of broken brackets of the support structure of the halon fire extinguishing bottle 4005WX; investigation showed that fatigue cracks initiated in the attachment brackets at the cross beams due to dynamic loading, and in some cases propagated in the struts. This proposed AD would require replacing the support brackets of the 4005WX fire extinguisher bottle with reinforced support brackets, and replacing the strut assembly at the affected location, as specified in a European Union Aviation Safety Agency (EASA) AD, which is proposed for incorporation by reference. The FAA is proposing this AD to address the unsafe condition on these products.

DATES: The FAA must receive comments on this proposed AD by April 8, 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 will be incorporated by reference (IBR) in this AD, contact the EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; telephone +49 221 8999 000; email ADs@easa.europa.eu; internet www.easa.europa.eu. You may find this IBR material on the EASA website at <https://ad.easa.europa.eu>. You may view this IBR material at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206-231-3195. It is also available in the AD docket on the internet at <https://www.regulations.gov> by searching for and locating Docket No. FAA-2021-0014.

For material that will be incorporated by reference (IBR) in this AD, contact the EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; telephone +49 221 8999 000; email ADs@easa.europa.eu; internet www.easa.europa.eu. You may find this IBR material on the EASA website at <https://ad.easa.europa.eu>. You may view this IBR material at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206-231-3195. It is also available in the AD docket on the internet at <https://www.regulations.gov> by searching for and locating Docket No. FAA-2021-0014.

Examining the AD Docket

You may examine the AD docket on the internet at <https://www.regulations.gov> by searching for and locating Docket No. FAA-2021-0014; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this 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:

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

SUPPLEMENTARY INFORMATION:

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-2021-0014; Project Identifier

MCAI-2020-01457-T” at the beginning of your comments. The most helpful comments reference a specific portion of the proposal, explain the reason for any recommended change, and include supporting data. The FAA will consider all comments received by the closing date and may amend the proposal because of those comments.

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

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 Vladimir Ulyanov, Aerospace Engineer, Large Aircraft Section, International Validation Branch, FAA, 2200 South 216th St., Des Moines, WA 98198; telephone and fax: 206-231-3229; email vladimir.ulyanov@faa.gov. Any commentary that the FAA receives which is not specifically designated as CBI will be placed in the public docket for this rulemaking.

Discussion

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

This proposed AD was prompted by a report indicating occurrences of broken brackets of the support structure of the halon fire extinguishing bottle

4005WX; investigation showed that fatigue cracks initiated in the attachment brackets at the cross beams due to dynamic loading, and in some cases propagated in the struts. The FAA is proposing this AD to address fatigue cracking on the attachment brackets, which could lead to damage of the tubing and electrical wiring of the lower deck cargo compartment (LDCC) fire extinguishing system, and possibly result in insufficient fire suppression capability in the LDCC. See the MCAI for additional background information.

Related Service Information Under 1 CFR Part 51

EASA AD 2020-0234 describes procedures for replacing the support brackets of the 4005WX fire extinguisher bottle with reinforced support brackets, and replacing the strut assembly at the right-hand underfloor section 13/14 at frame (FR) 34/35 and FR35/36. This material is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

FAA’s Determination and Requirements of This Proposed AD

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

Proposed AD Requirements

This proposed AD would require accomplishing the actions specified in EASA AD 2020-0234 described previously, as incorporated by reference, except for any differences identified as exceptions in the regulatory text of this AD.

Explanation of Required Compliance Information

In the FAA’s ongoing efforts to improve the efficiency of the AD process, the FAA initially worked with Airbus and EASA to develop a process to use certain EASA ADs as the primary source of information for compliance with requirements for corresponding FAA ADs. The FAA has since coordinated with other manufacturers and civil aviation authorities (CAAs) to

use this process. As a result, EASA AD 2020–0234 will be incorporated by reference in the FAA final rule. This proposed AD would, therefore, require compliance with EASA AD 2020–0234 in its entirety, through that incorporation, except for any differences identified as exceptions in the regulatory text of this proposed AD. Using common terms that are the same as the heading of a particular section in the EASA AD does not mean that

operators need comply only with that section. For example, where the AD requirement refers to “all required actions and compliance times,” compliance with this AD requirement is not limited to the section titled “Required Action(s) and Compliance Time(s)” in the EASA AD. Service information specified in EASA AD 2020–0234 that is required for compliance with EASA AD 2020–0234 will be available on the internet at

<https://www.regulations.gov> by searching for and locating Docket No. FAA–2021–0014 after the FAA final rule is published.

Costs of Compliance

The FAA estimates that this proposed AD affects 6 airplanes of U.S. registry. The FAA estimates the following costs to comply with this proposed AD:

ESTIMATED COSTS FOR REQUIRED ACTIONS

Labor cost	Parts cost	Cost per product	Cost on U.S. operators
14 work-hours × \$85 per hour = \$1,190	\$1,900	\$3,090	\$18,540

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

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

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

(a) Comments Due Date

The FAA must receive comments by April 8, 2021.

(b) Affected ADs

None.

(c) Applicability

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

(d) Subject

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

(e) Reason

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

(f) Compliance

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

(g) Requirements

Except as specified in paragraph (h) of this AD: Comply with all required actions and compliance times specified in, and in accordance with, EASA AD 2020–0234.

(h) Exceptions to EASA AD 2020–0234

- (1) Where EASA AD 2020–0234 refers to its effective date, this AD requires using the effective date of this AD.
- (2) The “Remarks” section of EASA AD 2020–0234 does not apply to this AD.

(i) Other FAA AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, Large Aircraft Section, International Validation Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or responsible Flight Standards Office, as appropriate. If sending information directly to the Large Aircraft Section, International Validation Branch, send it to the attention of the person

identified in paragraph (j)(2) of this AD. Information may be emailed to: 9-AVS-AIR-730-AMOC@faa.gov. Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the responsible Flight Standards Office.

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

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

(j) Related Information

(1) For information about EASA AD 2020-0234, contact the EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; telephone +49 221 8999 000; email ADs@easa.europa.eu; internet www.easa.europa.eu. You may find this EASA AD on the EASA website at <https://ad.easa.europa.eu>. You may view this material at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206-231-3195. This material may be found in the AD docket on the internet at <https://www.regulations.gov> by searching for and locating Docket No. FAA-2021-0014.

(2) For more information about this AD, contact Vladimir Ulyanov, Aerospace Engineer, Large Aircraft Section, International Validation Branch, FAA, 2200 South 216th St., Des Moines, WA 98198; telephone and fax: 206-231-3229; email vladimir.ulyanov@faa.gov.

Issued on January 21, 2021.

Gaetano A. Sciortino,

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

[FR Doc. 2021-01744 Filed 2-19-21; 8:45 am]

BILLING CODE 4910-13-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA-2020-1180; Project Identifier MCAI-2020-00517-E]

RIN 2120-AA64

Airworthiness Directives; Safran Helicopter Engines, S.A. (Type Certificate Previously Held by Turbomeca, S.A.) Turboshaft Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to adopt a new airworthiness directive (AD) for certain Safran Helicopter Engines, S.A. (Safran Helicopter Engines) Arriel 2B, 2B1, 2C, 2C1, 2C2, 2S1 and 2S2 model turboshaft engines. This proposed AD was prompted by reports of non-conforming fuel filter pre-blockage pressure switches. This proposed AD would require repetitive visual inspections of the fuel filter by-pass indicator pop-up, a one-time operational test of the fuel filter pre-blockage pressure switch and, depending on the findings, replacement of the fuel filter pre-blockage pressure switch with a part eligible for installation. 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 April 8, 2021.

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

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

For service information identified in this NPRM, contact Safran Helicopter Engines, S.A., Avenue du 1er Mai, Tarnos, France; phone: +33 (0) 5 59 74 45 11. You may view this service information at the FAA, Airworthiness Products Section, Operational Safety Branch, 1200 District Avenue, Burlington, MA 01803. For information on the availability of this material at the FAA, call (781) 238-7759.

Examining the AD Docket

You may examine the AD docket at <https://www.regulations.gov> by searching for and locating Docket No. FAA-2020-1180; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this NPRM, the mandatory continuing airworthiness information (MCAI), any comments received, and other information. The street address for Docket Operations is listed above.

FOR FURTHER INFORMATION CONTACT: Wego Wang, Aviation Safety Engineer, ECO Branch, FAA, 1200 District Avenue, Burlington, MA 01803; phone: (781) 238-7134; fax: (781) 238-7199; email: wego.wang@faa.gov.

SUPPLEMENTARY INFORMATION:

Comments Invited

The FAA invites you to send any written relevant data, views, or arguments about this proposal AD. Send your comments to an address listed under **ADDRESSES**. Include "Docket No. FAA-2020-1180; Project Identifier MCAI-2020-00517-E" at the beginning of your comments. The most helpful comments reference a specific portion of the proposal, explain the reason for any recommended change, and include supporting data. The FAA will consider all comments received by the closing date and may amend this proposal because of those comments.

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

Confidential Business Information

CBI is commercial or financial information that is both customarily and actually treated as private by its owner. Under the Freedom of Information Act (FOIA) (5 U.S.C. 552), CBI is exempt from public disclosure. If your comments responsive to this NPRM contain commercial or financial information that is customarily treated as private, that you actually treat as private, and that is relevant or responsive to this NPRM, it is important that you clearly designate the submitted comments as CBI. Please mark each page of your submission containing CBI as "PROPIN." The FAA will treat such marked submissions as confidential under the FOIA, and they will not be

placed in the public docket of this NPRM. Submissions containing CBI should be sent to Wego Wang, Aviation Safety Engineer, ECO Branch, FAA, 1200 District Avenue, Burlington, MA 01803. Any commentary that the FAA receives which is not specifically designated as CBI will be placed in the public docket for this rulemaking.

Background

The European Union Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Community, has issued EASA AD 2019–0180, dated July 25, 2019 (referred to after this as “the MCAI”), to address the unsafe condition on these products. The MCAI states:

Occurrences have been reported of non-conforming fuel filter pre-blockage pressure switches, manufactured before December 2016. The non-conformity of the fuel filter pre-blockage pressure switch can cause its non-activation in case of fuel system contamination, with consequent opening of the by-pass without indication in the cockpit.

This condition, if not detected and corrected, and in case of fuel contamination, could lead to an uncommanded in-flight shut-down, possibly resulting in an emergency autorotation landing on a single engine helicopter, or to a double uncommanded in-flight shut-down on a twin engine helicopter.

To address this potential unsafe condition, SAFRAN issued the MSB, providing inspection instructions.

For the reasons described above, this [EASA AD] requires repetitive daily visual checks of the fuel filter by-pass indicator pop-up. This [EASA] AD also requires a one-time operational check of the affected part and, depending on findings, replacement of that part, which constitutes terminating action for the repetitive daily checks as required by this [EASA] AD.

You may obtain further information by examining the MCAI in the AD docket at <https://www.regulations.gov> by searching for and locating Docket No. FAA–2020–1180.

FAA’s Determination

This product has been approved by EASA and is approved for operation in the United States. Pursuant to our bilateral agreement with the European Community, EASA has notified us of the unsafe condition described in the MCAI and service information referenced above. The FAA is proposing this AD because the agency evaluated all the relevant information provided by EASA and determined the unsafe condition described previously is likely to exist or develop in other products of the same type design.

Related Service Information Under 1 CFR Part 51

The FAA reviewed Task 73–23–01–750–801–A01—Pre-Blockage Pressure Switch of the Fuel Filter Tests (Electrical), dated November 30, 2012, from the Turbomeca Arriel 2 S1 Maintenance Manual. Task 73–23–01–750–801–A01 provides instructions for performing an operational test of the fuel filter pre-blockage pressure switch. This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in ADDRESSES.

Other Related Service Information

The FAA reviewed Safran Helicopter Engines Mandatory Service Bulletin (MSB) No. 292 73 2869, Version B, dated December 2018. The MSB describes procedures for identifying and securing pre-blockage pressure switches of fuel filter part number P/N 9 550 17 200 0, which are potentially non-conforming.

Proposed AD Requirements in This NPRM

This proposed AD would require repetitive visual inspections of the fuel filter by-pass indicator pop-up, a one-time operational test of the fuel filter pre-blockage pressure switch and,

depending on the findings, replacement of the fuel filter pre-blockage pressure switch with a part eligible for installation.

Justification for Allowing Pilot To Perform Visual Inspection

This proposed AD would allow the visual inspections required by paragraph (g)(1) of this NPRM to be performed by an aircrew member holding at least a private pilot certificate. Performing a visual inspection to determine if the fuel filter by-pass indicator pop-up has been activated is not considered an action that must be performed by a certified person under 14 CFR 43.3. This authorization is an exception to our standard maintenance regulations.

Differences Between This Proposed AD and the MCAI or the Service Information

EASA AD 2019–0180 defines “Group 1” engines as Safran Helicopter Engines Arriel 2B, 2B1, 2B1A, 2C, 2C1, 2C2, 2S1 and 2S2 model turboshaft engines with an affected a fuel filter pre-blockage pressure switch and “Group 2” engines as the same Safran Helicopter Engines Arriel turboshaft engines not equipped with an affected fuel filter pre-blockage pressure switch. This AD does not define or use “Group 1” or “Group 2” and identifies both the affected engines and the affected fuel filter pre-blockage pressure switch in the Applicability paragraph. This AD does not include Safran Helicopter Engines Arriel 2B1A model turboshaft engines since these engines are not type certificated in the United States.

Costs of Compliance

The FAA estimates that this AD, if adopted as proposed, would affect 775 engines installed on helicopters of U.S. registry.

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

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Visual inspection of fuel filter by-pass indicator.	1 work-hour × \$85 per hour = \$85	\$0	\$85	\$65,875
Operational test of the fuel filter pre-blockage pressure switch.	3 work-hours × \$85 per hour = \$255	0	255	197,625

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

results of the proposed inspection. The FAA 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 fuel filter pre-blockage pressure switch	2 work-hours × \$85 per hour = \$170	\$225	\$395

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

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Safran Helicopter Engines, S.A. (Type Certificate Previously Held by Turbomeca, S.A.); Docket No. FAA–2020–1180; Project Identifier MCAI–2020–00517–E.

(a) Comments Due Date

The FAA must receive comments on this airworthiness directive (AD) by April 8, 2021.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Safran Helicopter Engines, S.A., (type certificate previously held by Turbomeca, S.A.) Arriel 2B, 2B1, 2C, 2C1, 2C2, 2S1 and 2S2 model turboshaft engines with a fuel filter pre-blockage pressure switch, part number 9 550 17 200 0, and serial number (S/N) 00001 to 12753, inclusive, and S/N A0001 to A0247, inclusive, installed.

(d) Subject

Joint Aircraft System Component (JASC) Code 7321 Fuel Control/Turbine Engines.

(e) Unsafe Condition

This AD was prompted by reports from the manufacturer of non-conforming fuel filter pre-blockage pressure switches manufactured before December 2016. The FAA is issuing this AD to prevent the non-conformity of the fuel filter pre-blockage pressure switch, which can cause its non-activation in case of fuel system contamination, with consequent opening of the by-pass without indication in the cockpit. The unsafe condition, if not addressed, could result in uncommanded in-flight shut-down of the engine, an emergency autorotation landing on a single engine helicopter, or an uncommanded in-flight shut-down of both engines on a twin engine helicopter.

(f) Compliance

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

(g) Required Actions

(1) After the effective date of this AD, during the pre-flight inspection for the first flight of each day the engine is operated, perform a visual inspection of the fuel filter by-pass indicator to determine if the fuel filter by-pass indicator pop-up has been activated.

(2) Within the next 300 hydro-mechanical metering unit (HMU) operating hours or 180 days after the effective date of this AD, whichever occurs first, perform an operational test of the fuel filter pre-blockage pressure switch in accordance with Task 73–23–01–750–801–A01—Pre-Blockage Pressure Switch of the Fuel Filter Tests (Electrical), dated November 30, 2012, (the Task) from the Turbomeca Arriel 2 S1 Maintenance Manual.

(3) During any visual inspection required by paragraph (g)(1) of this AD, if the fuel filter by-pass indicator pop-up has been activated or, during the operational test required by paragraph (g)(2) of this AD, any discrepancy is detected as described by the Task, before next flight, replace the fuel filter pre-blockage pressure switch with a part eligible for installation.

(4) The actions required by paragraph (g)(1) of this AD may be performed by the owner/operator (pilot) holding at least a private pilot certificate, and must be entered into the aircraft records showing compliance with this AD, in accordance with 14 CFR 43.9(a)(1) through (4) and 14 CFR 91.417(a)(2)(v). The records must be maintained as required by 14 CFR 91.417, 121.380, or 135.439.

(h) Terminating Action

Passing the operational test (no failure detected) of the fuel filter pre-blockage pressure switch, as required by paragraph (g)(2) of this AD, or replacement of the fuel filter pre-blockage pressure switch with a part eligible for installation, constitutes a terminating action for the repetitive visual inspections required by paragraph (g)(1) of this AD for that engine.

(i) Definition

A part eligible for installation is a fuel filter pre-blockage pressure switch that is not listed in the Applicability, paragraph (c), of this AD, or a fuel filter pre-blockage pressure switch that has passed the operational test (no discrepancies detected) required by paragraph (g)(2) of this AD.

(j) Alternative Methods of Compliance (AMOCs)

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

CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the manager of the ECO Branch, send it to the attention of the person identified in Related Information. You may email your request to: ANE-AD-AMOC@faa.gov.

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

(k) Related Information

(1) For more information about this AD, contact Wego Wang, Aviation Safety Engineer, ECO Branch, FAA, 1200 District Avenue, Burlington, MA 01803; phone: (781) 238-7134; fax: (781) 238-7199; email: wego.wang@faa.gov.

(2) Refer to EASA AD 2019-0180, dated July 25, 2019, for more information. You may examine the EASA AD in the AD docket at <https://www.regulations.gov> by searching for and locating it in Docket No. FAA-2020-1180.

(3) For service information identified in this AD, contact Safran Helicopter Engines, S.A., Avenue du 1er Mai, Tarnos, France; phone: +33 (0) 5 59 74 40 00. You may view this referenced service information at the FAA, Airworthiness Products Section, Operational Safety Branch, 1200 District Avenue, Burlington, MA 01803. For information on the availability of this material at the FAA, call (781) 238-7759.

Issued on January 22, 2021.

Lance T. Gant,

Director, Compliance & Airworthiness Division, Aircraft Certification Service.

[FR Doc. 2021-01780 Filed 2-19-21; 8:45 am]

BILLING CODE 4910-13-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[FAA Rules Docket No. 90-CE-35-AD]

RIN 2120-AA64

Airworthiness Directives; Textron Aviation Inc. (Type Certificate previously held by Cessna Aircraft Company) Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Proposed rule; withdrawal.

SUMMARY: The FAA is withdrawing a notice of proposed rulemaking (NPRM) and supplemental notice of proposed rulemaking (SNPRM) that proposed to supersede airworthiness directive (AD) 72-14-08 R1 for Cessna Aircraft Company (now Textron Aviation Inc.) Models 310, 320, 401, 402, 411, and 421 airplanes. AD 72-14-08 R1 requires repetitively inspecting the fuel and oil

flexible hose lines for leakage or evidence of any damaged or deteriorated hose assembly on the above-referenced airplanes and replacing any discrepant part. Since issuance of the SNPRM, the FAA has not received any reports of fuel and oil flexible hose lines that leak or are damaged and has determined that the repetitive inspections required by AD 72-14-08 R1 address the unsafe condition. Accordingly, the NPRM and SNPRM are withdrawn.

DATES: As of February 22, 2021, the proposed rules, which published in the **Federal Register** on October 23, 1990 (55 FR 42726), and October 22, 1998 (63 FR 56579), are withdrawn.

FOR FURTHER INFORMATION CONTACT: Jeff Janusz, Supervisory Aviation Safety Specialist, Wichita ACO Branch, FAA, 1801 Airport Road, Wichita, Kansas 67209; phone: 316-946-4148; fax: 316-946-4107; email: jeff.janusz@faa.gov or Wichita-COS@faa.gov.

SUPPLEMENTARY INFORMATION:

Discussion

The FAA issued an NPRM that proposed to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to supersede AD 72-14-08R1, Amendment 39-4215 (46 FR 45597, September 14, 1981) (AD 72-14-08 R1), which applies to Cessna Aircraft Company Models 310, 320, 401, 402, 411, and 421 series airplanes. The current type certificate holder for these airplanes is Textron Aviation Inc. The NPRM published in the **Federal Register** on October 23, 1990 (55 FR 42726). The FAA subsequently issued an SNPRM, which published on October 22, 1998 (63 FR 56579). The NPRM and SNPRM proposed to:

- Initially retain the requirement of repetitively inspecting the fuel and oil flexible hose lines for leakage or evidence of any damaged or deteriorated hose assembly on all of the affected airplanes, and replacing any discrepant part; and

- eventually require, regardless if damage or deterioration was found, replacing the fuel and oil flexible hose assemblies in the engine compartment with an improved design hose assembly as terminating action for the repetitive inspection requirement. For some models, the replacement would have been mandatory and for others it would have been an option instead of continuing the repetitive inspections.

Actions Since the SNPRM Was Issued

Since issuance of the SNPRM, FAA has not received any reports of fuel and oil flexible hose lines that leak or are damaged and has determined that the

repetitive inspections required by AD 72-14-08 R1 address the unsafe condition. Therefore, the FAA determined that further AD action is not warranted and the proposals should be withdrawn.

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

Regulatory Findings

Since this action only withdraws an NPRM and SNPRM, it is neither a proposed nor a final rule and therefore, 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 October 23, 1990 (55 FR 42726), and the supplemental notice of proposed rulemaking, which published in the **Federal Register** on October 22, 1998 (63 FR 56579), are withdrawn.

Issued on January 20, 2021.

Lance T. Gant,

Director, Compliance & Airworthiness Division, Aircraft Certification Service.

[FR Doc. 2021-01771 Filed 2-19-21; 8:45 am]

BILLING CODE 4910-13-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA-2011-0099; Product Identifier 2010-SW-085-AD]

RIN 2120-AA64

Airworthiness Directives; Sikorsky Aircraft Corporation Model S-76A, S-76B, and S-76C Helicopters Modified by Supplemental Type Certificate SR09211RC

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Proposed rule; withdrawal.

SUMMARY: The FAA is withdrawing a notice of proposed rulemaking (NPRM) that proposed to adopt a new airworthiness directive (AD) that would have applied to all Sikorsky Aircraft Corporation (Sikorsky) S-76 model helicopters with a certain life raft

deployment system (LRDS) installed per Supplemental Type Certificate (STC) SR09211RC. The NPRM was prompted by an incident that occurred where the handle bent prior to the life raft deploying, and this prohibited the crew from successfully deploying and using the life raft. It was determined that the handle in this incident was not manufactured to the approved Type Design. The NPRM would have required removing and replacing the pilot or co-pilot life raft deployment handle (handle) located on the left side of the “broom closet” of the helicopter. Since issuance of the NPRM, the FAA determined that, based on a review of the design approval holder’s records, all of the handles have been replaced. Accordingly, the NPRM is withdrawn.

DATES: The FAA is withdrawing the proposed rule published March 1, 2011 (76 FR 11174), as of February 22, 2021.

ADDRESSES:

Examining the AD Docket

You may examine the AD docket on the internet at <https://www.regulations.gov> by searching for and locating Docket No. FAA–2011–0099; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this AD action, any comments received, and other information. The street address for Docket Operations is U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT:

Jonas Perez, Aviation Safety Engineer, Fort Worth ACO Branch, FAA, 10101 Hillwood Pkwy., Fort Worth, TX 76177; telephone 817–222–5145; email Jonas.Perez@faa.gov.

SUPPLEMENTARY INFORMATION:

Discussion

The FAA has issued an NPRM that proposed to amend 14 CFR part 39 by adding an AD that would apply to the specified products. The NPRM was published in the **Federal Register** on March 1, 2011 (76 FR 11174). The NPRM was prompted by an incident that occurred where the handle bent prior to the life raft deploying, and this prohibited the crew from successfully deploying and using the life raft. It was determined that the handle in this incident was not manufactured to the approved Type Design.

The NPRM proposed to require removing and replacing the pilot or co-pilot handle located on the left side of the “broom closet” of the helicopter.

The proposed actions were intended to address bending of the handle, which could result in failure of the life raft to deploy. This failure could lead to loss of access to the life raft after an emergency ditching on water.

Actions Since the NPRM Was Issued

Since issuance of the NPRM, the FAA determined that, based on a review of the design approval holder’s records, all of the handles have been replaced, which addresses the identified unsafe condition. Therefore, the FAA determined that AD action is not appropriate.

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

Comments

The FAA gave the public the opportunity to comment on the NPRM. The FAA received no comments on the NPRM or on the determination of the cost to the public.

FAA’s Conclusions

Upon further consideration, the FAA determined that the NPRM is unnecessary. Accordingly, the NPRM is withdrawn.

Regulatory Findings

Since this action only withdraws an NPRM, it is neither a proposed nor a final rule. This action therefore is not covered under Executive Order 12866, the Regulatory Flexibility Act, or DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979).

List of Subjects in 14 CFR Part 39

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

The Withdrawal

■ Accordingly, the notice of proposed rulemaking, Docket No. FAA–2011–0099, which was published in the **Federal Register** on March 1, 2011 (76 FR 11174), is withdrawn.

Issued on January 20, 2021.

Gaetano A. Sciortino,

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

[FR Doc. 2021–01623 Filed 2–19–21; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2020–1208; Airspace Docket No. 20–AAL–46]

RIN 2120–AA66

Proposed Establishment of Class E Airspace; Port Alsworth, AK

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This action proposes to establish Class E airspace extending upward from 700 feet above the surface of the earth at Wilder/Natwick LLC Airport, Port Alsworth, AK. This action would accommodate new area navigation (RNAV) procedures and ensure the safety and management of instrument flight rule (IFR) operations within the National Airspace System.

DATES: Comments must be received on or before April 8, 2021.

ADDRESSES: Send comments on this proposal to the U.S. Department of Transportation, Docket Operations, 1200 New Jersey Avenue SE, West Building Ground Floor, Room W12–140, Washington, DC 20590; telephone: 1–800–647–5527, or (202) 366–9826. You must identify FAA Docket No. FAA–2020–1208; Airspace Docket No. 20–AAL–46, at the beginning of your comments. You may also submit comments through the internet at <https://www.regulations.gov>.

FAA Order 7400.11E, Airspace Designations and Reporting Points, and subsequent amendments can be viewed online at https://www.faa.gov/air_traffic/publications/. For further information, you can contact the Airspace Policy Group, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591; telephone: (202) 267–8783. The Order is also available for inspection at the National Archives and Records Administration (NARA). For information on the availability of FAA Order 7400.11E at NARA, email: fedreg.legal@nara.gov, or go to <https://www.archives.gov/federal-register/cfr/ibr-locations.html>.

FOR FURTHER INFORMATION CONTACT:

Richard Roberts, Federal Aviation Administration, Western Service Center, Operations Support Group, 2200 S. 216th Street, Des Moines, WA 98198; telephone (206) 231–2245.

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle I, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it would establish Class E airspace extending upward from 700 feet above the surface of the earth to support IFR operations at Wilder/Natwick LLC Airport.

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments, as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify both docket numbers and be submitted in triplicate to the address listed above. Persons wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. FAA-2020-1208; Airspace Docket No. 20-AAL-46". The postcard will be date/time stamped and returned to the commenter.

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

Availability of NPRMs

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

www.faa.gov/air_traffic/publications/airspace_amendments/.

You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office (see the **ADDRESSES** section for the address and phone number) between 9:00 a.m. and 5:00 p.m., Monday through Friday, except federal holidays. An informal docket may also be examined during normal business hours at the Northwest Mountain Regional Office of the Federal Aviation Administration, Air Traffic Organization, Western Service Center, Operations Support Group, 2200 S. 216th Street, Des Moines, WA 98198.

Availability and Summary of Documents for Incorporation by Reference

This document proposes to amend FAA Order 7400.11E, Airspace Designations and Reporting Points, dated July 21, 2020, and effective September 15, 2020. FAA Order 7400.11E is publicly available as listed in the **ADDRESSES** section of this document. FAA Order 7400.11E lists Class A, B, C, D, and E airspace areas, air traffic service routes, and reporting points.

The Proposal

The FAA is proposing an amendment to 14 CFR part 71 by establishing Class E airspace extending upward from 700 feet above the surface of the earth at Wilder/Natwick LLC Airport, Port Alsworth, AK.

The Class E airspace would be established within a 2.5 mile radius of the airport beginning at the point the 308° bearing from the airport intersects the 2.5-mile radius clockwise to the point the 79° bearing from the airport intersects the 2.5-mile radius. This area will accommodate circling north of runway 6/24. In addition, this area would include that airspace within a 7.3 mile radius of the airport beginning at the point the 230° bearing from the airport intersects the 7.3-mile radius clockwise to the point the 271° bearing from the airport intersects the 7.3-mile radius. This area would protect aircraft using the RNAV approach to runway 6 and departures until reaching 1,200 feet AGL.

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

Environmental Review

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

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

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

■ 1. The authority citation for 14 CFR Part 71 continues to read as follows:

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

§ 71.1 [Amended]

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

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

* * * * *

AAL AK E5 Port Alsworth, AK [NEW]

Wilder/Natwick LLC Airport, AK
(Lat. 60°11'55 "N, long. 154°19'23 "W)

That airspace extending upward from 700 feet above the surface within 7.3 mile radius of Wilder/Natwick LLC Airport beginning at the point the 230° bearing from the airport intersects the 7.3-mile radius clockwise along the 7.3-mile radius to the point the 271° bearing intersects the 7.3-mile radius, thence east to the point the 308° bearing from the airport intersects an arc within a 2.5 mile radius of the airport, thence clockwise along the 2.5-mile arc to the point the 79° bearing intersects the 2.5-mile arc thence southwest to the point of beginning.

Issued in Seattle, Washington, on January 20, 2021.

Byron Chew,

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

[FR Doc. 2021-01617 Filed 2-19-21; 8:45 am]

BILLING CODE 4910-13-P

POSTAL SERVICE**39 CFR Part 111****Addressing Standards**

AGENCY: Postal Service™.

ACTION: Proposed rule; revision; additional comment period.

SUMMARY: The Postal Service is revising its pending proposal to amend *Mailing Standards of the United States Postal Service*, Domestic Mail Manual (DMM®) in various sections of *Addressing*, to update addressing standards.

DATES: Submit comments on or before March 24, 2021.

ADDRESSES: Mail or deliver written comments to the manager, Product Classification, U.S. Postal Service, 475 L'Enfant Plaza SW, Room 4446, Washington, DC 20260-5015. If sending comments by email, include the name and address of the commenter and send to PCFederalRegister@usps.gov, with a subject line of "Addressing Standards". Faxed comments are not accepted.

Confidentiality

All submitted comments and attachments are part of the public record and subject to disclosure. Do not enclose any material in your comments that you consider to be confidential or inappropriate for public disclosure.

You may inspect and photocopy all written comments, by appointment only, at USPS® Headquarters Library, 475 L'Enfant Plaza SW, 11th Floor North, Washington, DC 20260. These records are available for review on Monday through Friday, 9 a.m.–4 p.m., by calling 202-268-2906.

FOR FURTHER INFORMATION CONTACT:

James Wilson at (901) 681-4600, Kai Fisher at (901) 681-4634, or Garry Rodriguez at (202) 268-7281.

SUPPLEMENTARY INFORMATION: On September 22, 2020, the Postal Service published a notice of proposed rulemaking (85 FR 59484-59486) to update addressing standards. In response to that proposed rule, the mailing industry provided many valuable comments, which has prompted the Postal Service to issue a revised proposed rule with an additional comment period. The revised proposed rule will clarify our proposal to respond to mailer comments by clearly outlining the ways in which the proposal has changed.

Comments

Thirty-five formal responses were received. Several responses expressed concern that the change would create cost increases for lower volume mailers that currently process their lists quarterly and would be required to process more frequently, increasing the cost paid to mail service providers for address matching services. Several responses suggested the 60-day requirement should be increased to 95 days, which coincides with Move Update Standards. Other comments questioned the 60-day requirement from address matching to the mailing date with a product release that is still valid for use beyond that time frame. The remaining comments requested an extension of the comment period.

Background

Currently, DMM section 602.6.0, *ZIP Code Accuracy Standards*, provides that a ZIP Code™ may be used on a mail piece within 12 months after verified using a Postal Service approved method. Once a ZIP Code is used on a mailpiece, the address associated with that ZIP Code is considered to meet Postal Service addressing standards for an additional 12 months from the date first used in the mail.

DMM sections 602.7.0, *Carrier Route Accuracy Standard*, and 9.0, *Coding Accuracy Support System (CASS)*, provide that Address Matching and Coding Update standards require coding to be performed within 90 days before the mailing date for carrier route mailings and 180 days for all non-carrier route mailings using the most current USPS database. The current product release schedule allows for use of a database that is valid for 105 days and may be used for an additional 6 months beyond that timeframe. As such, an address added or modified in the Postal Service database may not be updated on

a mailer's mailing list for nearly 1 year after the change was made.

In 2012, the Postal Service implemented address management product fulfillment via an electronic product fulfillment method designed to provide subscription products to customers more efficiently. The database product updates are posted each month to a secure site where customers can log in to simply download the product files. A recent survey of licensed Address Management data products indicates that CASS and Multiline Accuracy Support System (MASS) Certified software and service providers are retrieving and using the monthly updates during the address matching and coding processes.

Proposal

The Postal Service proposed implementing a database product cycle that aligns with the release of other mailing products. This will provide consistency across all mailing products and the method by which the data files are available and distributed.

The suggestion to increase the 60-day requirement to coincide with the 95 days required for Move Update Standards is not within the scope of this proposal.

The updated proposed release schedule allows for 120 days of use and an overlap in dates for product use. Mailers that currently process their lists quarterly would still be compliant as long as they do not mail beyond the "last permissible mailing date" for the "product date" as shown in the USPS Product Cycle in Exhibit 9.3.1. Mailers will be expected to update their systems with the latest data files as soon as practicable and should not wait until the "last permissible use" date.

The Postal Service is proposing to implement this change effective July 1, 2021. However, mailers may opt to use the new monthly update cycles for both carrier route and non-carrier route mailings immediately.

We believe this proposed revision will provide customers with a more efficient process and will reduce the risk of using address information that is not current.

Although exempt from the notice and comment requirements of the Administrative Procedure Act (5 U.S.C. 553(b), (c)) regarding proposed rulemaking by 39 U.S.C. 410(a), the Postal Service invites public comment on the following proposed revisions to *Mailing Standards of the United States Postal Service*, Domestic Mail Manual (DMM), incorporated by reference in the Code of Federal Regulations. See 39 CFR 111.1.

We will publish an appropriate amendment to 39 CFR part 111 to reflect these changes.

List of Subjects in 39 CFR Part 111

Administrative practice and procedure, Postal Service.

Accordingly, 39 CFR part 111 is proposed to be amended as follows:

PART 111—[AMENDED]

■ 1. The authority citation for 39 CFR part 111 continues to read as follows:

Authority: 5 U.S.C. 552(a); 13 U.S.C. 301–307; 18 U.S.C. 1692–1737; 39 U.S.C. 101, 401, 403, 404, 414, 416, 3001–3011, 3201–3219, 3403–3406, 3621, 3622, 3626, 3632, 3633, and 5001.

■ 2. Revise the *Mailing Standards of the United States Postal Service, Domestic Mail Manual (DMM)* as follows:

Mailing Standards of the United States Postal Service, Domestic Mail Manual (DMM)

* * * * *

600 Basic Standards for All Mailing Services

* * * * *

602 Addressing

* * * * *

6.0 ZIP Code Accuracy Standards

6.1 Basic Standards

Except for mail bearing a simplified address, addresses used on pieces in a mailing at all commercial First-Class Mail, nonbarcoded presorted Periodicals, USPS Marketing Mail, Parcel Select Lightweight, and Bound Printed Matter presorted and carrier route prices are subject to the ZIP Code accuracy standard and must meet these requirements:

[Revise the text of items a and b to read as follows:]

a. Each address and associated 5-digit ZIP Code on the mailpieces in a mailing must be verified and corrected within 6 months before the mailing date with one of the USPS-approved methods in 6.2.

b. If an address used on a mailpiece in a mailing at one class of mail and price is verified and corrected with an approved method, the same address may be used during the following 6 months to meet the ZIP Code accuracy standard required for mailing at any other class of mail and price.

6.2 USPS—Approved Methods

The following methods meet the ZIP Code accuracy standard:

* * * * *

b. For manually maintained lists or small computerized lists, options include the following:

[Delete item b1 and renumber items b2 through b5 as items b1 through b4.]

* * * * *

7.0 Carrier Route Accuracy Standard

7.1 Basic Standards

* * * Addresses used on pieces claiming any Periodicals carrier route prices, any USPS Marketing Mail Enhanced Carrier Route prices (including DALs or DMLs used with Product Samples), or any Bound Printed Matter carrier route prices are subject to the carrier route accuracy standard and must meet the following requirements:

[Revise the text of item a to read as follows:]

a. Each address and associated carrier route code used on the mailpieces (or DALs or DMLs) in a mailing must be updated with one of the USPS-approved methods in 6.2 using a product release

that is within the USPS Product Cycle as provided in Exhibit 9.3.1.

* * * * *

[Delete item c.]

* * * * *

9.0 Coding Accuracy Support System (CASS)

* * * * *

9.3 Date of Address Matching and Coding

9.3.1 Update Standards

[Revise the text of 9.3.1 to read as follows:]

Unless Z4CHANGE is used, all automation and carrier route mailings bearing addresses coded by any AIS product must be coded with current CASS-certified software and the current USPS database. Coding must be done using a product release that is within the USPS Product Cycle as provided in Exhibit 9.3.1. All AIS products may be used immediately on release. New product releases must be included in address matching systems no later than after the first of the month following the product date. The overlap in dates for product use allows mailers adequate time to install the new data files and test their systems. Mailers are expected to update their systems with the latest data files as soon as practicable and need not wait until the “last permissible use” date. The mailer’s signature on the postage statement certifies that this standard has been met when the corresponding mail is presented to the USPS. The “current USPS database” product cycle is defined by the table in Exhibit 9.3.1.

[Delete current table under 9.3.1 and add new table as Exhibit 9.3.1 to read as follows:]

EXHIBIT 9.3.1 USPS DATABASE PRODUCT CYCLE

Release date (posted)	Product date	Required use date	Expiration date (last permissible use date)	Last permissible mailing date
Use of file released in	(Publish date)	Must begin no later than . . .	And must end no later than . . .	
Mid-November	December 1	January 1	February 28/29	March 31.
Mid-December	January 1	February 1	March 31	April 30.
Mid-January	February 1	March 1	April 30	May 31.
Mid-February	March 1	April 1	May 31	June 30.
Mid-March	April 1	May 1	June 30	July 31.
Mid-April	May 1	June 1	July 31	August 31.
Mid-May	June 1	July 1	August 31	September 30.
Mid-June	July 1	August 1	September 30	October 31.
Mid-July	August 1	September 1	October 31	November 30.
Mid-August	September 1	October 1	November 30	December 31.
Mid-September	October 1	November 1	December 31	January 31.
Mid-October	November 1	December 1	January 31	February 28/29.

* * * * *

9.5 Documentation

* * * * *

9.5.5 Using a Single List

[Revise the text of 9.5.5 by deleting the last sentence.]

* * * * *

Joshua J. Hofer,*Attorney, Federal Compliance.*

[FR Doc. 2020–29031 Filed 2–19–21; 8:45 am]

BILLING CODE P

ENVIRONMENTAL PROTECTION AGENCY**40 CFR Part 52**

[EPA–R06–OAR–2020–0604; FRL–10017–37–Region 6]

Approval and Promulgation of Air Quality Implementation Plans; Louisiana; Infrastructure State Implementation Plan Requirements for the National Ambient Air Quality Standards**AGENCY:** Environmental Protection Agency (EPA).**ACTION:** Proposed rule.

SUMMARY: Pursuant to the Federal Clean Air Act (CAA or Act), the Environmental Protection Agency (EPA) is proposing to approve the State Implementation Plan (SIP) submittal from Louisiana submitted on November 4, 2020 for the 2015 ozone (O₃), 2006 PM_{2.5}, 2008 ozone, 2010 nitrogen dioxide, 2010 sulfur dioxide and the 2012 PM_{2.5} National Ambient Air Quality Standards (NAAQS). This submittal addresses how the existing SIP contains adequate provisions prohibiting emissions which interfere with required measures in any other State to protect visibility with respect to the 2015 ozone NAAQS as well as the 2006 PM_{2.5}, 2008 ozone, 2010 nitrogen dioxide, 2010 sulfur dioxide and the 2012 PM_{2.5} NAAQS.

DATES: Written comments must be received on or before March 24, 2021.

ADDRESSES: Submit your comments, identified by Docket No. EPA–R06–OAR–2020–0604, at <https://www.regulations.gov> or via email to huser.jennifer@epa.gov. Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov*. The EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI)

or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.* on the web, cloud, or other file sharing system). For additional submission methods, please contact Jennifer Huser, (214) 665–7347, huser.jennifer@epa.gov. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <https://www.epa.gov/dockets/commenting-epa-dockets>.

Docket: The index to the docket for this action is available electronically at www.regulations.gov. While all documents in the docket are listed in the index, some information may not be publicly available due to docket file size restrictions or content (*e.g.*, CBI).

FOR FURTHER INFORMATION CONTACT:

Jennifer Huser, EPA Region 6 Office, Air and Radiation Division—State Planning and Implementation Branch, 1201 Elm Street, Suite 500, Dallas, TX 75270, 214–665–7347, huser.jennifer@epa.gov. Out of an abundance of caution for members of the public and our staff, the EPA Region 6 office will be closed to the public to reduce the risk of transmitting COVID–19. We encourage the public to submit comments via <https://www.regulations.gov>, as there will be a delay in processing mail and no courier or hand deliveries will be accepted. Please call or email the contact listed above if you need alternative access to material indexed but not provided in the docket.

SUPPLEMENTARY INFORMATION:

Throughout this document wherever “we,” “us,” or “our” is used, we mean the EPA.

I. Background

Under section 109 of the CAA, EPA establishes NAAQS to protect human health and public welfare. On October 26, 2015, the EPA revised the primary and secondary 8-hour ozone NAAQS from 0.075 ppm to 0.070 ppm to provide increased protection of public health and public welfare.¹ In 2006, the EPA revised the PM_{2.5} NAAQS,² in 2008, the ozone NAAQS,³ in 2010, the nitrogen dioxide NAAQS,⁴ in 2010, the sulfur

dioxide NAAQS,⁵ and in 2012, the PM_{2.5} NAAQS.⁶ The primary standards are set to protect human health, while secondary standards are set to protect public welfare.

The CAA requires states to submit, within 3 years after promulgation of a new or revised NAAQS, SIPs that meet the applicable infrastructure elements of sections 110(a)(1) and (2). This SIP submission is commonly referred to as an “infrastructure SIP” or “i-SIP”. Section 110(a)(2)(D)(i) includes four distinct components, commonly referred to as prongs, that must be addressed in these infrastructure SIP submissions. These prongs require that states adopt measures that prohibit certain adverse air quality effects on neighboring states due to interstate transport of pollution. Prong 4 requires states to demonstrate that their SIP contains adequate measures that prohibit emissions from any source within a state from interfering with the visibility protection measures of other states (also referred to as visibility transport).

In EPA’s 2013 guidance for states regarding i-SIPs,⁷ EPA discussed its interpretation of Prong 4 and its relationship to the Regional Haze program under CAA sections 169A and 169B. EPA suggested two options states may have to demonstrate that the requirements of Prong 4 are met. One way in which Prong 4 may be satisfied for any relevant NAAQS is through confirmation in its infrastructure SIP submission that it has an approved regional haze SIP that fully meets the requirements of 40 CFR 51.308 or 51.309. Alternatively, states may submit a demonstration in its infrastructure SIP submission that shows that emissions within its jurisdiction do not interfere with other states’ plans to protect visibility. The demonstration must show that the state has sufficient measures that have been approved into its SIP that prevent emissions within its jurisdiction from interfering with the visibility protection plans of other states.

⁵ 75 FR 35520 (June 22, 2010).⁶ 78 FR 3085 (January 15, 2013).⁷ Stephen D. Page, Director, Office of Air Quality Planning and Standards. “Guidance on Infrastructure State Implementation Plan (SIP) Elements under Clean Air Act Section 110(a)(1) and 110(a)(2).” Memorandum to EPA Air Division Directors, Regions 1 through 10, September 13, 2013 (hereinafter “2013 I-SIP Guidance”).¹ 80 FR 65291 (October 26, 2015).² 71 FR 61144 (October 17, 2006).³ 73 FR 16483 (March 27, 2008).⁴ 75 FR 6474 (February 9, 2010).

A. Louisiana's Infrastructure SIP Submittals for 2006 PM_{2.5}, 2008 Ozone, 2010 Nitrogen Dioxide, 2010 Sulfur Dioxide and the 2012 PM_{2.5} National Ambient Air Quality Standards (NAAQS)

Louisiana made the following submissions to EPA to satisfy the i-SIP requirements: 2006 PM_{2.5} NAAQS, on May 11, 2011; 2008 O₃, 2010 NO₂, 2010 SO₂ NAAQS on June 7, 2013 and the 2012 PM_{2.5} NAAQS on December 16, 2015.⁸ In an October 2016 action, we disapproved the portions of these submissions which addressed Prong 4 and approved the other portions which address the other elements found in section 110(a)(2).⁹ We disapproved Prong 4 for these specific NAAQS, because the state did not have a fully approved Regional Haze SIP at the time of submittal, nor did the state provide a demonstration which shows that they have met the Prong 4 requirement.

B. Regional Haze and Visibility Transport in Louisiana

On June 13, 2008, Louisiana submitted a SIP to EPA, which addressed the regional haze requirements. EPA acted upon this SIP in two separate actions. The first was a limited disapproval for best available retrofit technology (BART) determinations for electric generating units (EGUs) as there were deficiencies in the SIP arising from the remand by the US Court of Appeals for the District of Columbia of the Clean Air Interstate Rule (CAIR).¹⁰ The second action was a partial limited approval/partial disapproval; EPA found that the revision met some, but not all of the applicable requirements.¹¹ EPA granted a partial limited approval of the LA Regional Haze (RH) SIP submittal for meeting the requirements of: 51.308(d), for the core requirements for regional haze SIPs, except for the requirements of 51.308(d)(3); 51.308(f), for the commitment to submit comprehensive periodic revisions of regional haze SIPs; 51.308(g), for the commitment to submit periodic reports describing progress towards the reasonable progress goals (RPGs); 51.308(h), for the commitment to conduct periodic determinations of the adequacy of the existing regional haze SIP; and 51.308(i), for coordination with state and Federal Land Managers.¹² In that action, the EPA also partially

disapproved the LA RH SIP submittal because it did not include fully approvable measures for meeting the requirements of 40 CFR 51.308(d)(3), long-term strategy for regional haze as it relied on deficient non-EGU BART analyses; and 51.308(e), BART requirements for regional haze visibility impairment with respect to emissions of visibility impairing pollutants from four non-EGUs.

In response to EPA's partial disapproval and limited disapproval of the original regional haze submittal, Louisiana performed BART determinations for both electric generating units (EGUs) and other facilities (non-EGUs). On August 11, 2016, Louisiana submitted a SIP revision to address the deficiencies related to BART for the non-EGU facilities. EPA proposed approval of this submittal on October 27, 2016.¹³ On February 10, 2017, Louisiana submitted a SIP revision intended to address the deficiencies related to BART for EGU sources. On May 19, 2017, EPA proposed approval of that revision with the exception of the portion related to a coal-burning facility in Calcasieu Parish.¹⁴ On June 20, 2017, and in a subsequent revision on October 26, 2017, Louisiana submitted a SIP revision for parallel processing related to the EGU in Calcasieu Parish. On September 25, 2017, EPA proposed approval on this SIP revision.¹⁵ On December 21, 2017, EPA published final approval of these SIP revisions addressing the BART requirements for these facilities. This SIP approval determined that Louisiana has met all applicable regional haze requirements as set forth in sections 169A and 169B of the CAA and 40 CFR 51.300–308.¹⁶

II. Louisiana's Visibility Transport Submittal

On November 4, 2020, LDEQ submitted a SIP revision to EPA in order to satisfy the visibility transport requirements for the following NAAQS: 2015 ozone, 2006 particulate matter (PM_{2.5}), 2008 ozone, 2010 nitrogen dioxide, 2010 sulfur dioxide, and the 2012 particulate matter (PM_{2.5}). Louisiana determined that they have met the Prong 4 requirements for the 2015 ozone NAAQS. Louisiana's submittal also addresses the Prong 4 requirements that were previously disapproved for the 2006 PM_{2.5}, 2008 ozone, 2010 nitrogen dioxide, 2010 sulfur dioxide and the 2012 PM_{2.5}

NAAQS. Louisiana did not have a fully approved Regional Haze SIP at the time of the disapproval action. The SIP revision contains the state's Regional Haze SIP history: Louisiana submitted their first regional haze SIP to EPA on June 13, 2008, and after multiple SIP revisions, EPA approved their Regional Haze SIP on December 21, 2017.¹⁷ Based on the full approval of their Regional Haze SIP, Louisiana has determined that they now meet the Prong 4 requirements for visibility transport for the 2015 Ozone NAAQS. Louisiana has also determined that they now meet the Prong 4 requirements for the 2006 PM_{2.5}, 2008 ozone, 2010 nitrogen dioxide, 2010 sulfur dioxide and the 2012 PM_{2.5} NAAQS, which we previously disapproved.

III. The EPA's Evaluation of Louisiana's i-SIP

Under section 110(a)(2)(D)(i)(II), an infrastructure SIP submission cannot be approved with respect to Prong 4 (visibility transport) until the EPA has issued final approval of SIP provisions that the EPA has found to adequately address any contribution of that state's sources to impacts on visibility program requirements in other states. The EPA interprets this prong to be pollutant-specific, such that the infrastructure SIP submission need only address the potential for interference with protection of visibility caused by the pollutant (including precursors) to which the new or revised NAAQS applies.

One way in which Prong 4 may be satisfied is through an air agency's confirmation in its infrastructure SIP submission that it has an approved regional haze SIP that fully meets the requirements of 40 CFR 51.308 or 51.309. 40 CFR 51.308 and 51.309 specifically require that a state participating in a regional planning process include all measures needed to achieve its apportionment of emission reduction obligations agreed upon through that process. See 40 CFR 51.308(d)(3)(ii). Thus, a fully approved regional haze SIP will ensure that emissions from sources under an air agency's jurisdiction are not interfering with measures required to be included in other air agencies' plans to protect visibility.

The last remaining elements of Louisiana's Regional Haze SIP were approved by EPA on December 21, 2017.¹⁸ Accordingly, EPA proposes to find that Louisiana meets the visibility protection requirements of

⁸ These i-SIP submittals are available on [regulations.gov](https://www.regulations.gov) in docket number EPA-R06-OAR-2013-0465.

⁹ 81 FR 68322 (October 4, 2016).

¹⁰ 77 FR 33642 (June 7, 2012).

¹¹ 77 FR 39425 (July 3, 2012).

¹² 77 FR 39425 (July 3, 2012).

¹³ 81 FR 74750 (August 16, 2016).

¹⁴ 82 FR 22936 (May 19, 2017).

¹⁵ 82 FR 44753 (September 26, 2017).

¹⁶ 82 FR 60520 (December 21, 2017).

¹⁷ 82 FR 60520 (December 21, 2017).

¹⁸ 82 FR 60520 (December 21, 2017).

110(a)(2)(D)(i)(II) for the 2015 ozone, 2006 PM_{2.5}, 2008 ozone, 2010 nitrogen dioxide, 2010 sulfur dioxide and the 2012 PM_{2.5} NAAQS.

IV. Proposed Action

The EPA is proposing to approve the SIP revision submitted on November 4, 2020 which addresses the Prong 4 requirements for the following NAAQS: 2015 Ozone, 2006 PM_{2.5}, 2008 Ozone, 2010 Nitrogen dioxide, 2010 Sulfur Dioxide, and the 2012 PM_{2.5} as Louisiana now has a fully approved Regional Haze SIP.

V. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 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 CAA. Accordingly, this action merely proposes to approve state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

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

- Does not provide EPA with the discretionary authority to address, as 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 proposed 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).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, Sulfur dioxide.

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

Dated: February 5, 2021.

David Gray,

Acting Regional Administrator, Region 6.
[FR Doc. 2021-02894 Filed 2-19-21; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R10-OAR-2021-0060; FRL-10017-16-Region 10]

Air Plan Approval; AK, Fairbanks North Star Borough; 2006 24-hour PM_{2.5} Serious Area Plan

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve parts of state implementation plan (SIP) submissions, submitted by the State of Alaska (Alaska or the State) to address Clean Air Act (CAA or Act) requirements for the 2006 24-hour fine particulate matter (PM_{2.5}) national ambient air quality standards (NAAQS) in the Fairbanks North Star Borough PM_{2.5} nonattainment area (Fairbanks PM_{2.5} Nonattainment Area). EPA is also proposing to approve rule revisions and an associated air quality control plan chapter submitted by Alaska into the Federally-approved SIP. Alaska made these submissions on December 13, 2019, (Fairbanks Serious Plan) and December 15, 2020.

DATES: Comments must be received on or before March 24, 2021.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-R10-OAR-2021-0060, at <https://www.regulations.gov>. Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from [regulations.gov](https://www.regulations.gov). EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information the disclosure of which is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.* on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <https://www.epa.gov/dockets/commenting-epa-dockets>.

FOR FURTHER INFORMATION CONTACT: Matthew Jentgen, EPA Region 10, 1200 Sixth Avenue—Suite 155, Seattle, WA 98101, (206) 553-0340, jentgen.matthew@epa.gov.

SUPPLEMENTARY INFORMATION: Throughout this document wherever "we," "us," or "our" is used, it is intended to refer to EPA.

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I. Background

In 2009, EPA designated a portion of the Fairbanks North Star Borough as "nonattainment" for the 2006 24-hour PM_{2.5} NAAQS of 35 micrograms per cubic meter (µg/m³) (Fairbanks PM_{2.5} Nonattainment Area) (74 FR 58688, November 13, 2009).¹ Effective July 2, 2014, EPA classified the area as "Moderate" (79 FR 31566, June 2, 2014). Subsequently, Alaska submitted, and the EPA approved, a plan to meet

¹ See 40 CFR 81.302.

Moderate nonattainment area requirements (82 FR 42457, September 8, 2017) (“Fairbanks Moderate Plan”).

On May 10, 2017, EPA determined that the State failed to attain the 2006 24-hour PM_{2.5} NAAQS in the area by the outermost Moderate area attainment date of December 31, 2015 (82 FR 21711). As a result, the Fairbanks PM_{2.5} Nonattainment Area was reclassified as a “Serious” nonattainment area by operation of law.

Upon reclassification as a Serious PM_{2.5} nonattainment area, the State was required to meet additional SIP requirements for the Fairbanks PM_{2.5} Nonattainment Area. In particular, the State was required to submit a Serious area nonattainment plan satisfying the requirements of CAA title I, part D, including the requirements of subpart 4, for the 2006 24-hour PM_{2.5} NAAQS and attain the 2006 24-hour PM_{2.5} NAAQS in the area by no later than the end of the tenth calendar year following designation (*i.e.*, December 31, 2019). Prior to submitting the Fairbanks Serious Plan, Alaska revised its regulations and planning elements to further limit visible emissions and promote the use of certified heating devices and cleaner burning practices in the Fairbanks PM_{2.5} Nonattainment Area and submitted the revised regulations to EPA on October 25, 2018 and November 28, 2018.²

Alaska submitted the Fairbanks Serious Plan on December 13, 2019 to address the Serious nonattainment area requirements for the 2006 24-hour PM_{2.5} NAAQS. The Fairbanks Serious Plan includes further changes to heating device and cleaner burning practices regulations, among other control measures and planning elements. The Fairbanks Serious Plan is comprised of revisions to Title 18, Chapter 50, of the Alaska Administrative Code (18 AAC 50) and the State Air Quality Control Plan, adopted and incorporated by reference into State law at 18 AAC 50.030(a). On January 9, 2020, in accordance with section 110(k)(1)(B) and part D of title I of the CAA, EPA determined that the Fairbanks Serious Plan was administratively and technically complete (85 FR 7760, February 11, 2020).

Within the Fairbanks Serious Plan, the State sought an extension of the otherwise applicable attainment date through section 188(e) of the CAA. On September 2, 2020, EPA determined that the area failed to attain by the Serious

area attainment date and denied the State’s Serious area attainment date extension request (85 FR 54509). As a result, Alaska was required to submit a revised plan to meet additional CAA requirements set forth in section 189(d) of the CAA by December 31, 2020. Alaska submitted the revised plan on December 15, 2020. Alaska’s December 15, 2020, submission makes several changes to the State Air Quality Control Plan, adopted and incorporated by reference into State law at 18 AAC 50.030(a).³ In particular, Alaska made additions to several chapters of the State Air Quality Control Plan, including Chapter III.D.7.12 (“Fairbanks Emergency Episode Plan”). Alaska also withdrew and replaced several other chapters. EPA is proposing to approve the base year emissions inventory and the PM_{2.5} precursor demonstration elements of the Fairbanks Serious Plan. Alaska did not withdraw these portions of the State Air Quality Control Plan as part of the December 15, 2020, submission.⁴ Also, EPA is proposing to approve the updated Fairbanks Emergency Episode Plan that was adopted by the State on November 18, 2020 and was submitted on December 15, 2020. EPA will act on the remainder of the December 15, 2020, submission at a later date.

Alaska also made SIP submissions on October 25, 2018 and November 28, 2018 (in addition to the December 13, 2019 submission), requesting EPA approval of specific changes to Alaska Administrative Code Title 18, Environmental Conservation, Chapter 50, Air Quality Control (18 AAC 50) State effective September 15, 2018 and January 8, 2019. The requests included in the October 25, 2018, and November 28, 2018 SIP submissions are discussed in section C of this preamble.

II. Clean Air Act Requirements for PM_{2.5} Serious Area Plans and Summary of Proposal

Upon reclassification of a Moderate nonattainment area as a Serious nonattainment area under subpart 4 of part D, title I of the CAA, the Act requires the State to submit a Serious area nonattainment plan that addresses

specific requirements.⁵ On August 24, 2016, EPA promulgated the final rule entitled, “Fine Particulate Matter National Ambient Air Quality Standards: State Implementation Plan Requirements” (PM_{2.5} SIP Requirements Rule).⁶ The PM_{2.5} SIP Requirements Rule is codified at 40 CFR part 51, subpart Z. The PM_{2.5} SIP Requirements Rule establishes regulatory requirements and provides interpretive guidance on the statutory SIP requirements that apply to states with areas designated nonattainment for the PM_{2.5} standards. In accordance with subpart 4 of part D, title I of the CAA and the PM_{2.5} SIP Requirements Rule at 40 CFR 51.1003(b), Serious area nonattainment plans must address the following requirements:

1. Base year emissions inventory meeting the requirements of CAA section 172(c)(3) and 40 CFR 51.1008(b)(1);
2. Attainment projected emissions inventory meeting the requirements of CAA section 172(c)(1) and 40 CFR 51.1008(b)(2);
3. Serious area nonattainment plan control strategy meeting the requirements of CAA section 189(b)(1)(B) and 40 CFR 51.1010, including provisions to assure that the best available control measures (BACM) and best available control technologies (BACT), for the control of direct PM_{2.5} and PM_{2.5} precursors are implemented no later than four years after the area is reclassified (CAA section 189(b)(1)(B));
4. Attainment demonstration and modeling meeting the requirements of CAA sections 188(c)(2) and 189(b)(1)(A) and 40 CFR 51.1011;
5. Reasonable further progress (RFP) provisions meeting the requirements of CAA section 172(c)(2) and 40 CFR 51.1012;
6. Quantitative milestones meeting the requirements of CAA section 189(c) and 40 CFR 51.1013;

⁵ CAA section 189(b), 42 U.S.C. 7513a(b); see also 81 FR 58010, 58074–58075, August 24, 2016.

⁶ 81 FR 58010. Prior to promulgating the PM_{2.5} SIP Requirements Rule, EPA provided its interpretations of the CAA’s requirements for particulate matter plans under part D, title I of the Act in the following guidance documents: (1) “State Implementation Plans; General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990” (“General Preamble”); (2) “State Implementation Plans; General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990; Supplemental” (“General Preamble Supplement”); and (3) “State Implementation Plans for Serious PM–10 Nonattainment Areas, and Attainment Date Waivers for PM–10 Nonattainment Areas Generally; Addendum to the General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990” (“General Preamble Addendum”).

² We approved the remainder of the 2018 submissions in prior actions on June 5, 2019 (84 FR 26019), August 29, 2019 (84 FR 45419), December 18, 2019 (84 FR 69331), and December 23, 2019 (84 FR 70428).

³ See Jason W. Brune, Commissioner Alaska Department of Environmental Conservation, to Chris Hladick, U.S. EPA Region 10, December 15, 2020, letter included in the docket for this proposed action.

⁴ Note that Alaska submitted an additional base year emissions inventory and updated PM_{2.5} precursor demonstrations as part of the December 15, 2020, submission. EPA is not proposing action on the additional base year emissions inventory or the updated PM_{2.5} precursor demonstration. EPA will propose action on these portions of the December 15, 2020, submission at a later date.

7. An evaluation by the state of sources of all four PM_{2.5} precursors for regulation, and implementation of controls on all such precursors, unless the state provides a demonstration establishing it is either not necessary to regulate a particular precursor in the nonattainment area at issue in order to attain by the attainment date, or that emissions of the precursor do not make a significant contribution to PM_{2.5} levels that exceed the standard;

8. Contingency measures meeting the requirements of CAA section 172(c)(9) and 40 CFR 51.1014; and

9. Nonattainment new source review provisions meeting the requirements of CAA section 189(b)(3) and 40 CFR 51.165.

In the Serious area nonattainment plan, states must also satisfy the requirements for Moderate area plans in CAA section 189(a), to the extent the state has not already met those requirements in the Moderate area plan submitted for the area (see CAA section 189(b)(1), 40 CFR 51.1003(b), and 81 FR 58010, 58075, August 24, 2016). In addition, the Serious area nonattainment plan must meet the general requirements applicable to all SIP submissions under section 110 of the CAA, including the requirement to provide necessary assurances that the implementing agencies have adequate personnel, funding, and authority under section 110(a)(2)(E), and the requirements concerning enforcement provisions in section 110(a)(2)(C).

EPA is proposing to approve parts of the Fairbanks Serious Plan as meeting the base year emission inventory requirements and certain optional PM_{2.5} precursor demonstration requirements. EPA is also proposing to approve rule revisions and an associated air quality control plan chapter submitted by Alaska into the Federally-approved SIP (SIP strengthening). Therefore, the ensuing evaluation of the Fairbanks Serious Plan focuses on only the statutory and regulatory requirements applicable to these Serious area nonattainment plan provisions. Additionally, we are not evaluating whether the Fairbanks Serious Plan or the December 15, 2020, submission meets the additional planning obligations of CAA section 189(d) or 40 CFR 51.1003(c). We note that EPA approved the nonattainment new source review element of the Fairbanks Serious Plan on August 29, 2019 (84 FR 45419). We will take action on the remaining elements of the Fairbanks Serious Plan and the December 15, 2020, submission at a later date.

III. Review of the Fairbanks Serious Plan

A. Base Year Emissions Inventory

1. Statutory and Regulatory Requirements

CAA section 172(c)(3) requires that states submit a comprehensive, accurate, current inventory of actual emissions from all sources of the relevant pollutant or pollutants in the nonattainment area as part of a nonattainment plan for such area. EPA discussed the emissions inventory requirements that apply to PM_{2.5} nonattainment areas, including Serious area nonattainment plan requirements, in the PM_{2.5} SIP Requirements Rule. The EPA codified these requirements in 40 CFR 51.1008.⁷ EPA has also issued additional guidance concerning emissions inventories for PM_{2.5} nonattainment areas.⁸

The base year emissions inventory for a Serious PM_{2.5} nonattainment area must be one of the three years for which monitored data were used by EPA to reclassify the area to Serious, or another technically appropriate year justified by the state in its Serious area nonattainment plan SIP submission.⁹ The base year emissions inventory should provide a state's best estimate of actual emissions from all sources, *i.e.*, all emissions that contribute to the formation of a particular NAAQS pollutant. The emissions must be either annual total emissions, average-season day emissions, or both, as appropriate for the relevant annual versus 24-hour PM_{2.5} NAAQS. In the Serious area plan SIP submission, the state must include a rationale for providing annual or seasonal emission inventories, and justification for the period used for any seasonal emissions calculations.¹⁰

For the PM_{2.5} NAAQS, the base year inventory must include direct PM_{2.5} emissions, separately reported filterable and condensable PM_{2.5} emissions,¹¹ and emissions of all chemical precursors to the formation of secondary PM_{2.5}: nitrogen oxides (NO_x), sulfur dioxide

⁷ 81 FR 58010, August 24, 2016, at pp. 58078–58079.

⁸ “Emissions Inventory Guidance for Implementation of Ozone and Particulate Matter National Ambient Air Quality Standards (NAAQS) and Regional Haze Regulations,” EPA, May 2017 (“Emissions Inventory Guidance”), available at: <https://www.epa.gov/air-emissions-inventories/air-emissions-inventory-guidance-implementation-ozone-and-particulate>.

⁹ 40 CFR 51.1008(b)(1).

¹⁰ 40 CFR 51.1008.

¹¹ The Emissions Inventory Guidance identifies the types of sources for which EPA expects states to provide condensable PM emission inventories. Emissions Inventory Guidance, section 4.2.1 (“Condensable PM Emissions”), 63–65.

(SO₂), volatile organic compounds (VOC), and ammonia (NH₃).¹²

A state's SIP submission must include documentation explaining how it calculated emissions data for the inventory and be consistent with the data elements required by 40 CFR part 51, subpart A. In estimating mobile source emissions, a state should use the latest emissions models and planning assumptions available at the time the SIP is developed. States are also required to use EPA's “Compilation of Air Pollutant Emission Factors” (“AP–42”) road dust method for calculating re-entrained road dust emissions from paved roads.^{13 14}

2. Summary of State's Submission

The base year planning emissions inventory for direct PM_{2.5} and PM_{2.5} precursors (NO_x, SO₂, VOC, and ammonia) and the documentation for the inventory for the Fairbanks PM_{2.5} Nonattainment Area are located in Chapter III.D.7.6 (“Emissions Inventory Data”) and Appendix III.D.7.6 of the Fairbanks Serious Plan.

The State developed the inventory using data sources and emission calculation methodologies from the approved Fairbanks PM_{2.5} Moderate Plan as its starting point and then updated the emissions totals based on additional source and activity data collected since preparation of that inventory.

The State based the 2013 base year emissions inventory on historical source activity data in calendar year 2013 for all source sectors. For point sources, the State updated emissions data for the 2013 base year emissions inventory based on annual fuel use/process throughput by individual facility and emission unit.¹⁵ The State also included fuel-based ammonia emissions for point

¹² 40 CFR 51.1008.

¹³ EPA released an update to AP–42 in January 2011 that revised the equation for estimating paved road dust emissions based on an updated data regression that included new emission tests results. 76 FR 6328 (February 4, 2011).

¹⁴ AP–42 has been published since 1972 as the primary source of EPA's emission factor information. <https://www.epa.gov/air-emissionsfactors-and-quantification/ap-42-compilation-air-emissions-factors>. It contains emission factors and process information for more than 200 air pollution source categories. A source category is a specific industry sector or group of similar emitting sources. The emission factors have been developed and compiled from source test data, material balance studies, and engineering estimates.

¹⁵ For directly emitted PM_{2.5}, condensable and filterable components are separately reported, see Appendix III.D.7.6, Table 7–6–76. Alaska and EPA have determined that the point source sector is the only Source Classification Code (SCC) category that must include condensable and filterable PM_{2.5} information in the Fairbanks PM_{2.5} Nonattainment Area.

sources in the 2013 inventory. Additional home heating survey data collected in winters 2012 through 2015 were used by the State to augment the estimates of residential space heating device/fuel mix and usage in the Moderate Plan based on the singular 2011 Home Heating survey. The State combined this broader sample of survey data to better reflect residential space heating activity within the nonattainment area for calendar year 2013. For both on-road and non-road vehicles, the State used EPA’s latest vehicle emissions model, MOVES2014b, to replace emission estimates from the Moderate SIP based on its predecessor, MOVES2010a. Alaska used MOVES2014b emission factors based on local fleet/fuel characteristics and augmented with Fairbanks North Star Borough wintertime vehicle warmup and plug-in emission testing data. On-road vehicle activity (VMT and speeds) was based by the State on 2013 baseline

travel demand model outputs from the Fairbanks Metropolitan Area Transportation System (FMATS) 2040 Metropolitan Transportation Plan (MTP) and 2045 MTP. Alaska used the 2014 National Emissions Inventory to represent Source Classification Code (SCC)-level annual emissions for fugitive dust, which were estimated to have no emissions during episodic wintertime conditions.

The 2013 base year emissions inventory in the Fairbanks Serious Plan has its foundations in the emissions inventory development work conducted for the Moderate Plan, which was based on emission estimates for two historical calendar year 2008 episodes (January 23–February 10, 2008 and November 2–17, 2008). The Fairbanks North Star Borough, Alaska Department of Environmental Conservation, and EPA collectively determined that these “seasonal” modeling episodes typify atmospheric/meteorological conditions

and source activity/emission patterns within the nonattainment season when ambient PM_{2.5} concentrations exceed the standard at design day or high percentile levels.¹⁶ Alaska believes that the average of emissions across the combined 35 days of the two historical episodes are well suited not just for attainment modeling, but also to satisfy seasonal planning inventory requirements. Similar to their development of a base year inventory for their Moderate Area Plan, Alaska used the meteorological scenarios and modeling from 2008 historical episodes as the basis for generating their 2013 base year planning inventory within this Serious SIP as provided in the PM_{2.5} SIP Requirements Rule.

Table 1 in this preamble provides a summary of the episodic (24-hour) average inventories in tons per day (tpd) of direct PM_{2.5} and PM_{2.5} precursors (NO_x, SO₂, VOC, and ammonia) for the 2013 base year.

TABLE 1—FAIRBANKS PM_{2.5} NONATTAINMENT AREA 2013 BASE YEAR EPISODE AVERAGE DAILY EMISSIONS (tons/day) BY SOURCE SECTOR

Source sector	Direct PM _{2.5}	NO _x	SO ₂	VOC	Ammonia
Point Sources	1.23	10.45	7.22	0.23	0.051
Area, Space Heating (Total)	2.59	2.34	3.62	9.50	0.136
Area, Space Heat, Wood	2.43	0.40	0.08	9.29	0.091
Area, Space Heat, Oil	0.06	1.72	3.42	0.10	0.003
Area, Space Heat, Coal	0.08	0.05	0.10	0.11	0.013
Area, Space Heat, Other	0.01	0.16	0.02	0.01	0.028
Area, Other ¹	0.22	1.72	0.03	2.27	0.045
On-Road Mobile	0.27	3.36	0.02	4.07	0.054
Non-Road Mobile ²	0.15	0.86	6.10	0.41	0.000
Totals	4.46	18.73	17.00	16.48	0.286

Source: Fairbanks Serious Plan, Chapter III.D.7.6, Table 7.6–10.

¹ The “Area, Other” category includes minor stationary sources (e.g., asphalt plants, coffee roasters, etc.)

² The “non-road mobile” category includes recreational vehicles, logging equipment, agricultural equipment, etc.

3. EPA’s Evaluation and Proposed Action

The 2013 base year emissions inventory meets the requirements of CAA section 172(c)(3) and 40 CFR 51.1008. Calendar year 2013 is an appropriate base year for the Fairbanks Serious Plan because it is one of the three years used in the reclassification from a Moderate area to a Serious area. The base year emissions inventory is a seasonal inventory, based on two meteorological episodes exemplifying the range of meteorological conditions that lead to exceedances of the 24-hour NAAQS. This is an appropriate temporal scope for a base year emissions inventory where anthropogenic

exceedances of the 24-hour NAAQS are exclusively in winter.

The emissions inventory is of actual emissions in 2013, as required in the PM_{2.5} SIP Requirements Rule and guidance.¹⁷ The emissions inventory also includes separate reporting for filterable and condensable PM_{2.5} for the relevant emissions sectors and SCC codes. The base year 2013 emissions inventory is based on methodologies used by the State and vetted by EPA in the Fairbanks Moderate Plan and applied to the new year 2013. Therefore, the inventory reports emissions of point sources consistent with the Air Emissions Reporting Rule (AERR) and contains the detail and data elements

required by 40 CFR part 51, subpart A. For these reasons, we are proposing to approve the 2013 base year emissions inventory in the Fairbanks Serious Plan as meeting the requirements of CAA section 172(c)(3) and 40 CFR 51.1008.

B. PM_{2.5} Precursor Demonstration

1. Statutory and Regulatory Requirements

Under subpart 4 of part D, title I of the CAA and the PM_{2.5} SIP Requirements Rule, each state containing a PM_{2.5} nonattainment area must evaluate all PM_{2.5} precursors for regulation unless, for any given PM_{2.5} precursor, the state demonstrates to the Administrator’s satisfaction that such precursor does not

¹⁶ The inventory is based on emissions estimated during the two 2008 episodes that represent weather conditions when exceedances of the 2006 24-hour PM_{2.5} NAAQS typically occur. The

inventory is an average of emissions across all days in the two episodes. It represents the average season-day emissions, in which the emission inventory season is the wintertime episodes of cold

and calm weather that coincide with exceedances of the standard (82 FR 9035, February 2, 2017).

¹⁷ 40 CFR 51.1008(a)(1)(ii).

contribute significantly to PM_{2.5} levels that exceed the NAAQS in the nonattainment area.¹⁸ The provisions of subpart 4 do not define the term “precursor” for purposes of PM_{2.5}, nor do they explicitly require the control of any specifically identified PM_{2.5} precursor. The statutory definition of “air pollutant,” however, provides that the term “includes any precursors to the formation of any air pollutant, to the extent the Administrator has identified such precursor or precursors for the particular purpose for which the term ‘air pollutant’ is used.”¹⁹ EPA has identified SO₂, NO_x, VOCs, and ammonia as precursors to the formation of PM_{2.5}.²⁰ Accordingly, the attainment plan requirements of subpart 4 apply to emissions of all four precursors and direct PM_{2.5} from all types of stationary, area, and mobile sources, except as otherwise provided in the Act (*e.g.*, CAA section 189(e)).

A large number of chemical reactions, often non-linear in nature, can convert gaseous SO₂, NO_x, VOCs, and ammonia to PM_{2.5}, making them precursors to PM_{2.5}.²¹ Formation of secondary PM_{2.5} also depends on atmospheric conditions, including solar radiation, temperature, and relative humidity, and the interactions of precursors with particles and with cloud or fog droplets.²² According to the Fairbanks Serious Plan, total wintertime PM_{2.5} concentrations in the Fairbanks PM_{2.5} Nonattainment Area are a function of both primary PM_{2.5} emissions and secondary PM_{2.5} formed from precursors (see Chapter III.D.7.8.1–7).

Section 189(e) of the Act requires that the control requirements for major stationary sources of direct PM₁₀²³ also apply to major stationary sources of PM₁₀ precursors, except where the Administrator determines that such sources do not contribute significantly to PM₁₀ levels that exceed the standard in the area. Section 189(e) contains the only express exception to the control requirements under subpart 4 (*e.g.*, requirements for reasonably available

control measures (RACM) and reasonably available control technology (RACT), BACM and BACT, Most Stringent Measures (MSM), and New Source Review (NSR) for sources of direct PM_{2.5} and PM_{2.5} precursor emissions). Although section 189(e) explicitly addresses only major stationary sources, EPA interprets the Act as authorizing it also to determine, under appropriate circumstances, that regulation of specific PM_{2.5} precursors from other source categories in a given nonattainment area is not necessary.²⁴ For example, under EPA’s longstanding interpretation of the control requirements that apply to stationary, area, and mobile sources of PM₁₀ precursors in the nonattainment area under CAA section 172(c)(1) and subpart 4,²⁵ a state may demonstrate in a SIP submission that control of a certain precursor pollutant is not necessary in light of its insignificant contribution to ambient PM₁₀ levels in the nonattainment area.²⁶

Under the PM_{2.5} SIP Requirements Rule, a state may elect to submit to EPA a “comprehensive precursor demonstration” for a specific nonattainment area to show that emissions of a particular precursor from all existing sources located in the nonattainment area do not contribute significantly to PM_{2.5} levels that exceed the NAAQS at issue in the nonattainment in the area.²⁷ If EPA determines that the contribution of the precursor to PM_{2.5} levels in the area is not significant and approves the demonstration, the state is not required to control emissions of the relevant precursor from existing sources in the attainment plan.²⁸

In addition, in May 2019, EPA issued the “PM_{2.5} Precursor Demonstration Guidance” (“PM_{2.5} Precursor Guidance”), which provides recommendations to states for analyzing nonattainment area PM_{2.5} emissions and developing such optional precursor demonstrations, consistent with the PM_{2.5} SIP Requirements Rule.²⁹

EPA evaluated the Fairbanks Serious Plan in accordance with the presumption embodied within subpart 4 that the State must address all PM_{2.5} precursors in the evaluation and implementation of potential control measures, unless the State adequately demonstrates that emissions of a particular precursor or precursors do not contribute significantly to ambient PM_{2.5} levels that exceed the PM_{2.5} NAAQS in the nonattainment area. In reviewing any determination by the state to exclude a PM_{2.5} precursor from the required evaluation of potential control measures, we considered both the magnitude of the precursor’s contribution to ambient PM_{2.5} concentrations in the nonattainment area and the sensitivity of ambient PM_{2.5} concentrations in the area to reductions in emissions of that precursor.³⁰

2. Summary of State’s Submission

Alaska includes its PM_{2.5} precursor analysis in Chapter III.D.7.8, section 7.8.12, of the Fairbanks Serious Plan. The State provides both concentration-based and sensitivity-based analyses of precursor contributions to ambient PM_{2.5} concentrations in the Fairbanks PM_{2.5} Nonattainment Area. These analyses led the State to conclude that SO₂ and ammonia emissions contribute significantly to ambient PM_{2.5} levels that exceed the PM_{2.5} NAAQS in the Fairbanks PM_{2.5} Nonattainment Area, while NO_x and VOCs do not contribute significantly to such exceedances, as discussed below. Consistent with this conclusion, the State focused the control strategy and attainment demonstration on sources of PM_{2.5}, SO₂, and ammonia emissions. Importantly, Alaska’s precursor analysis did not address nonattainment NSR requirements. The State made the prior determination to regulate all four EPA-identified legal precursors to PM_{2.5} in the nonattainment NSR regulations applicable to the Fairbanks PM_{2.5} Nonattainment Area. The EPA approved Alaska’s October 25, 2018, SIP revision as meeting the nonattainment NSR requirements triggered upon reclassification of the area to Serious (August 29, 2019, 84 FR 45419).

Alaska applied a tiered approach to the precursor demonstrations in the Fairbanks PM_{2.5} Nonattainment Area. The tiered analysis included: (1) A concentration-based analysis of ambient data; (2) a concentration-based analysis using air quality modeling (zero-out); and (3) sensitivity-based analysis using air quality modeling. For the concentration-based analysis using

¹⁸ 40 CFR 51.1006; See 81 FR 58010, August 24, 2016, at pp. 58017–58020.

¹⁹ CAA section 302(g).

²⁰ 81 FR 58010, August 24, 2016, at p. 58015.

²¹ “Air Quality Criteria for Particulate Matter” (EPA/600/P-99/002aF), EPA, October 2004, Ch. 3.

²² “Regulatory Impact Analysis for the Final Revisions to the National Ambient Air Quality Standards for Particulate Matter” (EPA/452/R-12-005), EPA, December 2012), 2–1.

²³ The requirements for attainment plans for the 2006 24-hour PM_{2.5} NAAQS include the general nonattainment area planning requirements in CAA section 172 of title I, part D, subpart 1 and the additional planning requirements specific to particulate matter in CAA sections 188 and 189 of title I, part D, subpart 4. 81 FR 58010, August 24, 2016, at pp. 58012–58014.

²⁴ 81 FR 58010, August 24, 2016, at pp. 58018–58019.

²⁵ General Preamble, 57 FR 13498, April 16, 1992, at pp. 13539–42.

²⁶ Courts have upheld this approach to the requirements of subpart 4 for PM₁₀. See, *e.g.*, *Assoc. of Irrigated Residents v. EPA, et al.*, 423 F.3d 989 (9th Cir. 2005).

²⁷ 40 CFR 51.1006(a)(1).

²⁸ 40 CFR 51.1006(a)(1).

²⁹ “PM_{2.5} Precursor Demonstration Guidance,” EPA-454/R-19-004, May 2019, including Memo dated May 30, 2019 from Scott Mathias, Acting Director, Air Quality Policy Division and Richard Wayland, Director, Air Quality Assessment Division, Office of Air Quality Planning and Standards (OAQPS), EPA to Regional Air Division Directors, Regions 1–10, EPA.

³⁰ 40 CFR 51.1006(a)(1)(i) and (ii).

ambient data, Alaska assessed the contribution of SO₂, NO_x, and ammonia for all four monitor sites between 2011 and 2015 on the highest concentration days. Alaska did not perform a concentration-based analysis using ambient data for VOCs. Through these analyses, Alaska identified that ammonia was a significant precursor in the Fairbanks PM_{2.5} Nonattainment Area.

For the concentration-based analysis using air quality modeling, Alaska utilized version 4.7.1 of the Community Multiscale Air Quality (CMAQ) photochemical model. The modeling relied on many elements from the precursor analysis provided by the State in the Fairbanks Moderate Plan (*e.g.*, meteorological inputs, emissions processing methods, nested modeling grids).

Alaska performed modeling analyses using both the base year emissions inventory (2013) and the future year emissions inventory (2019) for VOCs and NO_x. First, the State evaluated precursor significance using a zero-out approach that compared a baseline model run with a model run where a precursor's emissions were set to zero in order to determine the influence of that precursor on PM_{2.5} formation. For VOCs, Alaska performed a single analysis where it zeroed out all anthropogenic VOC emissions. For NO_x, Alaska performed two zero-out analyses: One where all anthropogenic NO_x emissions were zeroed out and one where only major stationary source NO_x emissions were zeroed out. Next, Alaska further evaluated NO_x precursor significance through a 75% sensitivity analysis. In this analysis, the State compared a baseline model run with a model run where all anthropogenic NO_x emissions were reduced by 75%. Alaska concluded that these analyses showed that VOCs and NO_x were not significant precursors in the Fairbanks PM_{2.5} Nonattainment Area.

Alaska performed two SO₂ precursor analyses using modeling elements from the Moderate Area Plan and updated baseline and future year emission inventories, as described previously in this preamble for the VOC and NO_x modeling. Alaska first performed a zero-out analysis where it zeroed out major stationary source SO₂ emissions. To address concerns about model underprediction of secondary sulfate, Alaska next performed an analysis that incorporated the base case model performance evaluation to estimate the impact of removing all major stationary source SO₂ emissions. Based on these analyses, Alaska concluded that SO₂

was a significant precursor in the Fairbanks PM_{2.5} Nonattainment Area.

Additionally, on March 18, 2020, Alaska provided clarifications on the precursor analyses, included in the docket for this action. Included in these clarifications were further calculations projecting NO_x significance at a 50% sensitivity level (*i.e.*, the comparison of a baseline model run with a model run including a 50% reduction of all anthropogenic NO_x emissions).

3. EPA's Evaluation and Proposed Action

EPA has evaluated the State's precursor demonstration for the Serious area nonattainment plan consistent with the PM_{2.5} SIP Requirements Rule and the recommendations in the PM_{2.5} Precursor Guidance. Additional details of EPA's evaluation of Alaska's precursor PM_{2.5} analyses are included in a Technical Support Document included in the docket for this action.³¹ Based on this evaluation, EPA agrees that SO₂ and ammonia emissions contribute significantly to ambient PM_{2.5} levels that exceed the 2006 PM_{2.5} NAAQS in the Fairbanks PM_{2.5} Nonattainment Area and that SO₂ and ammonia emission sources, therefore, remain subject to control requirements under subparts 1 and 4 of part D, title I of the Act.

For the reasons provided in this preamble and further detailed in the Technical Support Document, EPA proposes to approve the State's demonstration that NO_x and VOC emissions do not contribute significantly to ambient PM_{2.5} levels that exceed the 2006 PM_{2.5} NAAQS in the Fairbanks PM_{2.5} Nonattainment Area. Our proposed approval of Alaska's precursor demonstration does not extend to nonattainment NSR requirements for the area. The State did not address the issue of precursors for purposes of nonattainment NSR requirements in the Fairbanks Serious Plan because Alaska previously determined that it was appropriate to regulate NO_x, SO₂, VOCs, and ammonia as precursors to PM_{2.5} with respect to nonattainment NSR and submitted rule changes to that effect on October 25, 2018. The EPA approved the submitted revised program as meeting nonattainment NSR requirements triggered upon reclassification of the Fairbanks PM_{2.5} Nonattainment Area to Serious (84 FR 45419, August 29, 2019).

³¹ "Review of Fairbanks Nonattainment Area Precursor Demonstrations for Volatile Organic Compounds and Nitrogen Oxides in the 2019 State Implementation Plan Submission." Nicole Briggs and Robert Kotchenruther, November 4, 2020.

Regarding the State's analytical approach, EPA proposes to find that the State used the appropriate methods and data to evaluate PM_{2.5} formation in the Fairbanks PM_{2.5} Nonattainment Area from precursor emissions. Alaska began with concentration-based analyses for the precursors and proceeded with sensitivity-based analyses if necessary, which is an acceptable progression of analyses under the PM_{2.5} SIP Requirements Rule. The State utilized the appropriate threshold recommended in the EPA's guidance (1.5 µg/m³) in evaluating the significance of precursor emissions to the formation of 24-hour PM_{2.5} and utilized data from all four monitors in the Fairbanks PM_{2.5} Nonattainment Area.

Regarding the results of the State's analysis, the concentration-based modeling (Alaska's second tier precursor) analysis of VOC emissions demonstrates that anthropogenic VOCs have impacts on PM_{2.5} concentrations in the Fairbanks PM_{2.5} Nonattainment Area that are well below the 1.5 µg/m³ significance threshold. Therefore, we propose to concur with the State's conclusion that VOCs are not significant for PM_{2.5} formation in the Fairbanks PM_{2.5} Nonattainment Area.

Further, we propose to find that the weight of evidence presented in the Fairbanks Serious Plan and Alaska's March 18, 2020, clarification document suggests that NO_x emitted from all sources is an insignificant contributor to local PM_{2.5} concentrations, based on the following evidence. First, the NO_x 100% major stationary source reduction analysis demonstrated that NO_x emissions are insignificant contributors to PM_{2.5} concentrations at the four monitor locations. Second, the NO_x 75% all source reduction sensitivity analysis demonstrated that only 10% of the modeled days showed significant contributions of NO_x to PM_{2.5} concentrations at the Fairbanks monitors, and no days with significant contributions at the North Pole monitors. Third, the 75% all source reduction sensitivity analysis was conservative given that EPA guidance recommends evaluation of 30–70% reductions of the pollutant for analytical purposes.³² Lastly, Alaska's projected 50% reduction of NO_x from all sources sensitivity analysis suggested there would be insignificant contributions

³² "PM_{2.5} Precursor Demonstration Guidance," EPA-454/R-19-004, May 2019, including Memo dated May 30, 2019 from Scott Mathias, Acting Director, Air Quality Policy Division and Richard Wayland, Director, Air Quality Assessment Division, Office of Air Quality Planning and Standards (OAQPS), EPA to Regional Air Division Directors, Regions 1–10, EPA. Page 29.

from NO_x to PM_{2.5} concentrations on all modeled days at all monitors. Most of these days would have NO_x contributions to PM_{2.5} concentrations well below the 1.5 µg/m³ significance threshold.

C. SIP Strengthening Measures

1. Summary of State's Submission

In the October 25, 2018, November 28, 2018, and December 13, 2019 submissions, Alaska requested EPA approval of specific changes to Alaska Administrative Code Title 18, Environmental Conservation, Chapter 50, Air Quality Control (18 AAC 50) State effective September 15, 2018, January 8, 2019, and January 12, 2020. The requests included in the October 25, 2018 and November 28, 2018 SIP submissions (*i.e.*, not the Fairbanks Serious Plan submission (December 13, 2019)) are noted below. The State adopted these regulatory revisions to strengthen the existing Alaska SIP and to meet the new Serious area planning requirements for BACM for certain source categories.

This evaluation section discusses how the submitted rule revisions strengthen the current, Federally-approved SIP and why the EPA believes the rules are approvable. As such, our discussion focuses on the most recently submitted change to any particular rule provision. EPA is proposing to approve the submitted revisions to 18 AAC 50 and Volume III, Section III.D.7.12 of the State Air Quality Control Plan (the Fairbanks Emergency Episode Plan) as SIP strengthening and is not proposing to determine whether the submitted revisions satisfy, in whole or in part, the control strategy requirements in CAA section 189 and 40 CFR 51.1010 nor the contingency measure requirements in CAA section 172(c)(9) and 40 CFR 51.1014.³³

2. EPA's Evaluation and Proposed Action

a. State Air Quality Control Plan

In the submissions, Alaska repealed and readopted 18 AAC 50.030, the rule section into which all State air quality control provisions are adopted by reference. The revised version of the rule section contains two distinct paragraphs: Paragraph (a) adopts the State Air Quality Control Plan by

reference into State rules; and paragraph (b) requires that sources subject to specific control measures and technologies in the State Air Quality Control Plan comply with those requirements. Alaska only submitted paragraph (b) to EPA for SIP approval.³⁴

Paragraph (b) makes clear that any source subject to Reasonably Available Control Technology (RACT), Best Available Control Measures (BACM), and Best Available Control Technology (BACT) under the State Air Quality Control Plan must comply with those applicable requirements. RACT, BACM, and BACT are terms defined in the Clean Air Act and in the EPA's implementing regulations, and Alaska has adopted these Federal definitions by reference into State regulation at 18 AAC 50.990.³⁵ Please see Section D.2.G in this preamble for further discussion.

The addition of paragraph (b) improves the enforceability of State-adopted control measures, including those adopted for sources subject to RACT, BACM, and BACT in the Fairbanks PM_{2.5} Nonattainment Area. This enables Alaska to ensure that emission control measures as RACT, BACM, and BACT in the State Air Quality Control Plan are adopted and implemented. However, EPA's proposed approval of 18 AAC 50.030(b) does not constitute a proposed determination regarding whether the control measures the State identified as BACM or BACT in the Fairbanks Serious Plan satisfy, in whole or in part, the control strategy requirements in CAA section 189 and 40 CFR 51.1010. Therefore, we are proposing to approve and incorporate 18 AAC 50.030(b) by reference into the Alaska SIP.

b. Emission Standards for Solid Fuel-Fired Heating Devices

Solid fuel-fired heating device visible emissions standards are found in 18 AAC 50.075. Alaska submitted revisions to paragraph (e) that clarify and strengthens the compliance requirements associated with PM_{2.5} air episode declaration that prohibits operation of solid fuel-fired heating devices. To comply, operators must withhold fuel from the device and ensure that burning has ceased within three hours of the effective time of the declaration. The changes to paragraph

(e) make clear how to comply with such an air episode declaration and thus strengthen this rule section. Therefore, we propose to approve and incorporate by reference this change to 18 AAC 50.075.

Alaska also added paragraph (f) to 18 AAC 50.075. Paragraph (f) establishes a 20 percent opacity limit applicable in the Fairbanks PM_{2.5} Nonattainment Area, regardless of whether the State has called an air episode. This limit is similar to the 20 percent opacity limit established in Fairbanks North Star Borough ordinance 2015-01, adopted into the Alaska SIP and approved by the EPA as part of the Fairbanks Moderate Plan on September 8, 2017 (82 FR 42457). We are deferring action on paragraph (f) because we intend to address it in a separate action.

c. Requirements for Wood Sellers

The current version of 18 AAC 50.076 in the Alaska SIP requires commercial wood sellers serving the Fairbanks North Star Borough to register with Alaska Department of Environmental Conservation, if the Fairbanks PM_{2.5} Nonattainment Area is reclassified from Moderate to Serious. On May 10, 2017, the EPA reclassified the Fairbanks PM_{2.5} Nonattainment Area to Serious, effective June 9, 2017, therefore mandating wood seller registration. Because this provision has been triggered by the reclassification to Serious and is now in effect, Alaska removed the trigger language.

The revisions to this rule section also require that registered commercial wood sellers serving the Fairbanks North Star Borough conduct moisture testing in accordance with this rule. Furthermore, the requirements become more stringent on October 1, 2021. Upon that date and going forward, commercial wood sellers serving the Fairbanks North Star Borough must ensure all dry wood is processed and monitored so as to remain dry, and may sell wet wood only if certain conditions designed to prevent burning of the wet wood are met. These conditions include minimum size requirements, moisture disclosure requirements, and a confirmation from the seller in writing that a buyer is capable of drying the wood by the next winter season. Wood sellers must document and report periodically on these practices and those that fail to comply will be subject to remedial training, a notice of violation, revocation of their registration, and/or enforcement action. Non-commercial wood sellers are prohibited from selling wet wood in the Fairbanks PM_{2.5} Nonattainment Area. These rule revisions constitute more stringent

³³ As noted previously, EPA is proposing approval of the Fairbanks Emergency Episode Plan that was submitted on December 15, 2020, and is included in the docket. A version of the Fairbanks Emergency Episode Plan was submitted as part of the Fairbanks Serious Plan on December 13, 2019, but this has been superseded by the version submitted December 15, 2020, as part of the revised plan.

³⁴ Paragraph (a) of 18 AAC 50.030 is not appropriate for SIP approval because the EPA acts directly, as appropriate, on the specific provisions in the State Air Quality Control Plan that have been submitted by Alaska.

³⁵ Alaska requested approval of this new regulation in the November 28, 2018, SIP submission. This submission is included in the docket of this action.

requirements for wood sellers, so we are approving these revisions as SIP strengthening.

Consistent with our prior action on September 8, 2017, we propose to approve but not incorporate by reference the enforcement provision at paragraph (g)(11) to avoid conflict with the EPA's independent authorities (82 FR 42457).

d. Standards for Wood-Fired Heating Devices

Wood-fired heating device standards are found in 18 AAC 50.077. The State submitted changes to this section that require removal of unapproved and uncertified wood-fired heating devices when residences are sold and leased, prevent the installation of wood-fired heating devices as the primary heat source in new construction, and restrict the sale and advertising of devices that do not meet the stricter standards. In addition, Alaska revised the regulations regarding non-certified device removal upon sale of property and a mandatory dry wood compliance program. Prior to these revisions, these regulations became effective only upon an EPA determination that, among other things, the Fairbanks PM_{2.5} Nonattainment Area failed to attain the 2006 PM_{2.5} NAAQS by the Moderate area attainment date. EPA made such a determination on May 10, 2017 (82 FR 21711). Accordingly, Alaska revised the regulation to remove the now-irrelevant contingency language and to make these regulations fully effective.

Within the new wood-fired heating device standards, Alaska included a new rule section, 18 AAC 50.077(n) that adopted two contingency measures that will be triggered upon any of the determinations listed in 40 CFR 51.1014(a). The first measure requires owners of older EPA-certified wood fired heating devices with an emission rating above 2.0 grams per hour (g/hr), manufactured 25 years prior to the effective date of an EPA finding that triggers this measure, to remove the device upon the sale of a property or by December 31, 2024, whichever is earlier. The second measure requires owners of EPA-certified devices that were manufactured less than 25 years prior to the EPA finding to remove the device prior to reaching 25 years from the date of manufacture. Control measures targeting the older EPA certified devices will provide additional emission reduction benefits beyond Alaska's current home heating control measures. Estimates of the projected emissions reductions attributable to these measures are included in the docket for this proposed action. These measures

impose more stringent requirements on owners of solid-fuel heating devices in the Fairbanks PM_{2.5} Nonattainment Area, so we propose to approve these measures as SIP strengthening.

Therefore, we propose to approve and incorporate 18 AAC 50.077(n) by reference into the Alaska SIP. As stated previously, however, we are not proposing to determine whether the submitted revisions to this rule satisfy, in whole or in part, the control strategy requirements in CAA section 189 and 40 CFR 51.1010 or the contingency measure requirements in CAA section 172(c)(9) and 40 CFR 51.1014. Upon final approval, the Alaska SIP will incorporate 18 AAC 50.077 by reference, State effective January 8, 2020, except paragraphs (g) and (q). These paragraphs were not submitted for approval.

e. Limits on Sulfur Content of Fuel Oil

Alaska submitted a new rule section, 18 AAC 50.078, designed to limit the sulfur content of fuel oil used in oil-fired equipment such as residential space heaters. This limit applies after September 1, 2022. We propose to approve and incorporate 18 AAC 50.078(a) and (b) by reference into the Alaska SIP because these measures constitute more stringent standards on fuel sulfur content in the Fairbanks PM_{2.5} Nonattainment Area than what is currently in the SIP. In addition, 18 AAC 50.078(c) and 18 AAC 50.078(d) include new requirements for small area sources of PM_{2.5} including commercial charbroilers, commercial incinerators, commercial used oil burners, and commercial coffee roasters. We are deferring action on 18 AAC 50.078(c) and 18 AAC 50.078(d).

f. Provisions for Coal-Fired Heating Devices

Alaska added a new rule section, 18 AAC 50.079, to address emissions from coal-fired heating devices and submitted follow-up revisions to this rule section. The regulation at 18 AAC 50.079 prohibits a person who owns or operates a coal-fired heating device from installing or reinstalling, supplying, selling, leasing, distributing, conveying, or advertising for sale within the nonattainment area. Coal-fired heating devices must be rendered inoperable when properties change hands or no later than December 31, 2024.

We note that this provision includes two exemptions, at paragraphs (d) and (e). Alaska submitted paragraph (d) for approval. This paragraph exempts devices that have passed approved wintertime emission source tests from certain requirements. The emission source test must be approved by ADEC,

use a Federally approved method (40 CFR part 60, appendix A-3, Method 5), and the maximum emission rate for any individual test run does not exceed 18 g/hr of total particulate matter. We have reviewed the exemption under 18 AAC 50.079(d) and find it to be appropriately bounded, with specific criteria for an exemption. Alaska did not submit paragraph 18 AAC 50.079(e) for approval.

In this action, we propose to approve and incorporate the submitted revisions to 18 AAC 50.079 by reference into the Alaska SIP. These revisions constitute more stringent standards for owners and operators of coal-fired heating devices than what is currently in the SIP. Accordingly, EPA proposes to approve these measures as SIP strengthening. Upon final approval, the Alaska SIP will include 18 AAC 50.079, except paragraph (e).

g. Definitions

The submissions revised 18 AAC 50.990 to update several air quality definitions. Alaska clarified the definition of "particulate matter" for the purpose of meeting the wood-fired heating device emissions standards established in 18 AAC 50.077.³⁶ For this purpose, "particulate matter" corresponds with the definition in 40 CFR 60.531, subpart AAA Standards of Performance for New Residential Wood Heaters, and includes total particulate matter, as defined in that federal provision. Alaska DEC also revised the definition of "solid fuel-fired heating device" to make clear that certain dual-purpose centralized heat distribution systems are excluded from this definition.³⁷

As discussed previously in this document, the submissions revised the Alaska SIP to adopt by reference the federal definitions of "RACT", "BACM", and "BACT", as of July 1, 2017.³⁸ "RACT" is defined as the federal definition in 40 CFR 51.100(o), "BACM" is defined as the definition in 40 CFR 51.1000, and "BACT" is defined as the definition in 40 CFR 52.21(b), except that it is limited to the nonattainment pollutant and its defined

³⁶ Alaska requested approval of this revised regulation in the November 28, 2018, SIP submission. This submission is included in the docket of this action.

³⁷ Alaska requested approval of this revised regulation in the November 28, 2018, SIP submission. This submission is included in the docket of this action.

³⁸ Alaska requested approval of this new regulation in the November 28, 2018, SIP submission. This submission is included in the docket of this action.

precursors as they apply in the Fairbanks PM_{2.5} Nonattainment Area.

Alaska DEC also added definitions for the terms “catalytic oxidizer”, “charbroiler”, “chain-driven charbroiler”, and “used oil” to support the new information collection requirements for small area sources in 18 AAC 50.078.³⁹

The added and revised definitions in 18 AAC 50.990 are consistent with Clean Air Act requirements, therefore, we propose to approve and incorporate the submitted revised definitions by reference into the Alaska SIP.

h. Emergency Episode Plan

EPA approved the Fairbanks Emergency Episode Plan as meeting certain Moderate area control strategy requirements on September 8, 2017 (82 FR 42457). EPA subsequently approved the plan for purposes of CAA section 110(a)(2)(G) requirements for the 2006 24-hour PM_{2.5} NAAQS (November 28, 2018, 83 FR 60769). Alaska revised the Fairbanks Emergency Episode Plan and submitted the updated plan as part of the Fairbanks Serious Plan submission on December 13, 2019. However, EPA did not act on the Fairbanks Serious Plan version, and Alaska has since revised the Emergency Episode Plan and submitted the updates for approval on December 15, 2020. EPA’s most recent

approval of the Fairbanks Emergency Episode Plan (Volume II, Section III.D.5.11) occurred on June 5, 2019 (84 FR 26019).

As noted previously, on December 15, 2020, Alaska submitted an updated Fairbanks Emergency Episode Plan as it applies to the Fairbanks PM_{2.5} Nonattainment Area (Volume II, Section III.D.7.12). Generally, the submitted plan strengthens the solid fuel burning device curtailment program implemented via 18 AAC 50.075(e) and makes the control measures within this emissions source category more stringent. The submitted plan includes lower (more stringent) thresholds for air quality episodes and advisory/alerts, along with updated exceptions that have a limited duration and incentivize upgrading heating devices.

In particular, Alaska revised the Air Quality Episode Thresholds and Exceptions used to declare the two-stage curtailment program. Both of the alert stages were lowered by 5 micrograms per cubic meter (µg/m³) in this submission. The Stage 1 Air Alert requires solid fuel burning devices to cease operation once PM_{2.5} concentrations exceed 20 µg/m³.⁴⁰ The Emergency Episode Plan provides an exception during periods of power outage (Volume II, Section III.D.7.12, Table 7.12–1). Otherwise, operation of a

solid fuel burning device during an air quality episode is prohibited unless the device qualifies for a temporary waiver. Operation of a solid fuel burning device during the Stage 1 Air Alert is allowed only if the device meets certain qualifications and conditions (see Volume II, Section III.D.7.12, Table 7.12–6 of the Fairbanks Serious Plan). Specifically, the waiver is limited in duration and requires older devices to be replaced in order to maintain the waiver. The Stage 2 Air Alert requires solid fuel burning devices to cease operation once PM_{2.5} concentrations rise above 30 micrograms per cubic meter (µg/m³). Waivers for Stage 1 and Stage 2 Alerts are provided for a device owner or operator that qualifies for a No Other Adequate Source of Heat (NOASH) waiver (see Volume II, Section III.D.7.12, Table 7.12–5 of the Fairbanks Serious Plan), but these waivers are also limited in duration and require older devices to be replaced in order to maintain the waiver. The Fairbanks Emergency Episode Plan included in the December 15, 2020, submission includes a control measure that will take effect upon an EPA finding under 40 CFR 51.1014(a) (“Stage 2 Air Alert Contingency Measure”). If triggered, the control measure will lower the Stage 2 Air Alert threshold from 30 µg/m³ to 25 µg/m³. See Table 1 below.

TABLE 1—ALASKA’S TABLE 7.12–1 AIR QUALITY EPISODE THRESHOLDS AND EXCEPTIONS

Episode feature	Stage 1 air alert	Stage 2 air alert	Stage 2 air alert contingency measure
PM _{2.5} Threshold, micrograms per cubic meter, (µg/m ³)	20	30	25.
Exceptions During a Power Outage	Yes	Yes	Yes.

The Fairbanks Emergency Episode Plan also includes Air Advisories that allow Alaska to request voluntary curtailment actions prior to reaching PM_{2.5} concentrations that trigger the Air Alerts and mandatory curtailment requirements. Air Advisories are declared when PM_{2.5} concentrations exceed 15 µg/m³ (24-hour rolling average). The Air Advisory was lowered by 5 µg/m³ in this submission. See Table 2 below.

TABLE 2—ALASKA’S TABLE 7.12–3 ADVISORY/ALERT LEVEL

Type	24-hour average PM _{2.5} concentration (µg/m ³)
Advisory Alert	15

Alaska’s revisions to the Fairbanks Emergency Episode Plan improve the State’s ability to implement the solid fuel burning device curtailment program via 18 AAC 50.075(e) and make the related control measures more stringent. Specifically, the revised PM_{2.5}

thresholds for the two-stage program will result in reduced emissions from solid fuel burning devices, particularly during the winter months. Therefore, we propose to approve and incorporate Volume II, Section III.D.7.12 of the State Air Quality Control Plan by reference into the Alaska SIP. As stated earlier, EPA is proposing to approve the Fairbanks Emergency Episode Plan as SIP strengthening and is not proposing to determine whether the Plan satisfies, in whole or in part, the control strategy requirements in CAA section 189 and 40 CFR 51.1010 or the contingency

³⁹ Alaska requested approval of this new regulation in the Fairbanks Serious Plan submission.

⁴⁰ According to the Emergency Episode Plan, ADEC air quality specialists use an air quality forecasting tool called the AQ Alert Model to issue forecasted curtailments by 2:00 p.m. local time. Before declaring a curtailment on the operation of

solid fuel-fired heating devices, DEC reviews the relevant and available meteorological data, weather forecasts, affected area, strength of the inversion, and potential duration of the inversion. Other inputs include the afternoon forecast of dispersion conditions issued by the National Weather Service forecasting office in Fairbanks and the assessment by ADEC personnel of many factors based on their

long-standing experience in observing air quality in Fairbanks, including the rate of change in concentrations at the monitors and the location and movement of weather fronts seen in satellite photos. DEC sometimes calls an Alert that does not include a curtailment if weather conditions indicate a clearing prior to any impact of a curtailment taking effect.

measure requirements in CAA section 172(c)(9) and 40 CFR 51.1014.

IV. Summary of Proposed Action

In this action, EPA is proposing to approve the submitted revisions to the Alaska SIP as meeting the following Serious Plan required elements for the 2006 24-hour PM_{2.5} NAAQS Fairbanks Nonattainment Area:

- The 2013 base year emissions inventory (CAA section 172(c)(3); 40 CFR 51.1008(b)(1));
- The State's PM_{2.5} precursor demonstration for NO_x and VOC emissions (CAA section 189(e) 40 CFR 51.1006(a)); and

The EPA is proposing to approve the submitted sections of the Alaska Air Quality Control Plan for the Fairbanks PM_{2.5} Nonattainment Area, State effective January 8, 2020:

- Volume II Section III.D.7.06 and Volume III Section III.D.7.06 Emissions Inventory for purposes of the 2013 base year emissions inventory;
- Volume II Section III.D.7.08 Precursor Demonstration, for the purposes of NO_x and VOC emissions as it relates to BACM/BACT control measure requirements; and

Further, the EPA is proposing to approve the submitted section of the Alaska Air Quality Control Plan for the Fairbanks PM_{2.5} Nonattainment Area, State effective December 25, 2020:

- Volume II Section III.D.7.12, Emergency Episode Plan.⁴¹

EPA is also proposing to approve and incorporate by reference submitted regulatory changes into the Alaska SIP. EPA is not at this time proposing to determine whether these provisions also meet other Serious area nonattainment plan requirements for the 2006 24-hour PM_{2.5} NAAQS in the Fairbanks PM_{2.5} Nonattainment Area. Upon final approval, the Alaska SIP will include:

- 18 AAC 50.030, except (a), State effective January 12, 2018;
- 18 AAC 50.075, except (d)(2) and (f), State effective January 8, 2020;
- 18 AAC 50.076, except (g)(11), State effective January 8, 2020;
- 18 AAC 50.077, except (g) and (q), State effective January 8, 2020;
- 18 AAC 50.078, except (c) and (d), State effective January 8, 2020;
- 18 AAC 50.079, except (e), State effective January 8, 2020; and

- 18 AAC 50.990(71), (138), (149), (150), (151), (152), (153), (154), and (155), State effective January 8, 2020.

EPA is soliciting public comments on these proposed actions.

V. Incorporation by Reference

In this document, EPA is proposing to include regulatory text in an EPA final rule that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, EPA is proposing to incorporate by reference the regulations described in Section IV of this preamble. EPA has made, and will continue to make, these materials generally available through <https://www.regulations.gov> and at the EPA Region 10 Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information).

VI. 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, EPA's role is to approve State choices, provided that they meet the criteria of the Clean Air Act. Accordingly, this proposed action merely proposes to approve State law as meeting Federal requirements and does not impose additional requirements beyond those imposed by State law. For that reason, this proposed action:

- Is not a "significant regulatory action" subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4);
- Does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);

- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);

- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);

• Is not subject to requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and

- Does not provide the 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).

The SIP obligations discussed herein do not apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. This proposed action 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).

List of Subjects in 40 CFR Part 52

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

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

Dated: February 9, 2021.

Michelle L. Pirzadeh,

Acting Regional Administrator, Region 10.

[FR Doc. 2021-03064 Filed 2-19-21; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R09-OAR-2020-0605; FRL-10019-34-Region 9]

Air Plan Approval; California; Imperial County Air Pollution Control District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve a revision to the Imperial County Air Pollution Control District (ICAPCD) portion of the California State Implementation Plan (SIP). This revision concerns emissions of oxides of nitrogen (NO_x) from natural gas-fired

⁴¹ Submitted on December 15, 2020 and included in the docket. EPA is not at this time proposing to determine whether this updated planning chapter, in conjunction with the associated regulatory changes, meets other Serious area nonattainment plan requirements for the 2006 24-hour PM_{2.5} NAAQS in the Fairbanks PM_{2.5} Nonattainment Area.

water heaters. We are proposing to approve a local rule to regulate these emission sources under the Clean Air Act (CAA or the “Act”). We are taking comments on this proposal and plan to follow with a final action.

DATES: Comments must be received on or before March 24, 2021.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R09–OAR–2020–0605 at <https://www.regulations.gov>. For comments submitted at *Regulations.gov*, follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov*. The EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the

official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.* on the web, cloud, or other file sharing system). For additional submission methods, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <https://www.epa.gov/dockets/commenting-epa-dockets>. If you need assistance in a language other than English or if you are a person with disabilities who needs a reasonable accommodation at no cost to you, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section. **FOR FURTHER INFORMATION CONTACT:** Robert Schwartz, EPA Region IX, 75 Hawthorne St., San Francisco, CA 94105. By phone: (415) 972–3286 or by email at schwartz.robert@epa.gov.

SUPPLEMENTARY INFORMATION: Throughout this document, “we,” “us” and “our” refer to the EPA.

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I. The State’s Submittal

A. What rule did the State submit?

Table 1 lists the rule addressed by this proposal with the dates that it was adopted by the local air agency and submitted by the California Air Resources Board (CARB).

TABLE 1—SUBMITTED RULE

Local agency	Rule No.	Rule title	Adopted	Submitted
ICAPCD	400.6	Natural Gas-Fired Water Heaters	11/26/2019	02/06/2020

On August 6, 2020, the submittal for ICAPCD Rule 400.6 was deemed by operation of law to meet the completeness criteria in 40 CFR part 51 Appendix V, which must be met before formal EPA review.

B. Are there other versions of this rule?

There are no previous versions of Rule 400.6 in the SIP.

C. What is the purpose of the submitted rule?

Emissions of NO_x contribute to the production of ground-level ozone, smog, and particulate matter (PM), which harm human health and the environment. Section 110(a) of the CAA requires states to submit regulations that control NO_x emissions. Rule 400.6 is a new rule that limits NO_x emissions in the ICAPCD from natural gas-fired water heaters rated less than 75,000 Btu/hr.¹ The EPA’s technical support document (TSD) has more information about this rule.

¹ British thermal unit (Btu) per hour: The amount of heat required to raise the temperature of one pound of water from 59 °F to 60 °F at one atmosphere

II. The EPA’s Evaluation and Action

A. How is the EPA evaluating the rule?

Rules in the SIP must be enforceable (see CAA section 110(a)(2)), must not interfere with applicable requirements concerning attainment and reasonable further progress or other CAA requirements (see CAA section 110(l)), and must not modify certain SIP control requirements in nonattainment areas without ensuring equivalent or greater emissions reductions (see CAA section 193).

Generally, SIP rules must require reasonably available control technology (RACT) for each major source of NO_x in ozone nonattainment areas classified as Moderate or above (see CAA sections 182(b)(2) and 182(f)). The ICAPCD regulates an ozone nonattainment area classified as Moderate for the 2008 8-hour ozone National Ambient Air Quality Standards (NAAQS) (40 CFR 81.305) (84 FR 58641). However, because this rule does not affect major sources, it does not need to implement section 182(b)(2) RACT. While section 182(b)(2) RACT does not apply, the Imperial County ozone nonattainment area is still subject to the SIP requirement to implement all reasonably available control measures (RACM) and attainment of the NAAQS.

Guidance and policy documents that we used to evaluate enforceability, revision/relaxation and rule stringency requirements for the applicable criteria pollutants include the following:

1. “State Implementation Plans; General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990,” 57 FR 13498 (April 16, 1992); 57 FR 18070 (April 28, 1992).
2. “Issues Relating to VOC Regulation Cutpoints, Deficiencies, and Deviations,” EPA, May 25, 1988 (the Bluebook, revised January 11, 1990).
3. “Guidance Document for Correcting Common VOC & Other Rule Deficiencies,” EPA Region 9, August 21, 2001 (the Little Bluebook).
4. “State Implementation Plans; Nitrogen Oxides Supplement to the General Preamble; Clean Air Act Amendments of 1990 Implementation of Title I; Proposed Rule,” (the NO_x Supplement), 57 FR 55620, November 25, 1992.
5. “Alternative Control Techniques Document—NO_x Emissions from Industrial/ Commercial/Institutional (ICI) Boilers,” EPA 453/R–94–022 (March 1994).
6. “Alternative Control Techniques Document—NO_x Emissions from Process Heaters (Revised),” EPA–453/R–93–034 1993/09 (September 1993).

B. Does the rule meet the evaluation criteria?

This rule meets CAA requirements and is consistent with relevant guidance regarding enforceability, RACM, and SIP revisions. The TSD has more information on our evaluation.

C. The EPA Recommendations to Further Improve the Rule

The TSD includes recommendations for the next time the local agency modifies the rule.

D. Public Comment and Proposed Action

As authorized in section 110(k)(3) of the Act, the EPA proposes to fully approve the submitted rule because it fulfills all relevant requirements. We will accept comments from the public on this proposal until March 24, 2021. If we take final action to approve the submitted rule, our final action will incorporate this rule into the federally enforceable SIP.

III. Incorporation by Reference

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

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 proposed action merely proposes to approve state law as meeting federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this proposed action:

- Is not a "significant regulatory action" subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Does not impose an information collection burden under the provisions

of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);

- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4);
- Does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and
- Does not provide the EPA with the discretionary authority to address disproportionate human health or environmental effects with practical, appropriate, 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 the 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).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements.

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

Dated: February 5, 2021.

Deborah Jordan,

Acting Regional Administrator, Region IX.

[FR Doc. 2021-02902 Filed 2-19-21; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R09-OAR-2020-0238; FRL-10015-85-Region 9]

Air Plan Approval; California; San Joaquin Valley Air Pollution Control District; Stationary Source Permits

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve a revision to the San Joaquin Valley Air Pollution Control District (SJVAPCD or "the District") portion of the California State Implementation Plan (SIP). This revision concerns the District's New Source Review (NSR) permitting program for new and modified sources of air pollution under section 110(a)(2)(C) of the Clean Air Act (CAA); specifically our proposal to approve Rule 2021: Experimental Research Operations. We are taking comments on this proposal and plan to follow with a final action.

DATES: Comments must be received on or before March 24, 2021.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-R09-OAR-2020-0238 at <https://www.regulations.gov>, or via email to R9AirPermits@epa.gov. For comments submitted at [Regulations.gov](https://www.regulations.gov), follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from [Regulations.gov](https://www.regulations.gov). For either manner of submission, the EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.* on the web, cloud, or other file sharing system). For additional submission methods, or if you need assistance in a language other than English or if you are a person with a disability who needs a reasonable accommodation at no cost to you, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section. For the full EPA public comment policy, information about CBI or multimedia

submissions, and general guidance on making effective comments, please visit <https://www.epa.gov/dockets/commenting-epa-dockets>.

FOR FURTHER INFORMATION CONTACT: Laura Yannayon, EPA Region IX, Air-3-1, 75 Hawthorne St., San Francisco, CA 94105, (415) 972-3534, yannayon.laura@epa.gov.

SUPPLEMENTARY INFORMATION: Throughout this document, “we,” “us” and “our” refer to the EPA.

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I. The State’s Submittal

A. What rule did the State submit?

Table 1 lists the rule addressed by this proposal with the dates that it was adopted by the local air agency and submitted to the EPA by the California Air Resources Board (CARB or “the State”).

TABLE 1—SUBMITTED RULE

Local agency	Rule No.	Rule title	Adopted on	Submitted on
SJVAPCD	2021	Experimental Research Operations	12/17/92	11/18/93

On May 18, 1994, the submittal of SJVAPCD Rule 2021 was deemed by operation of law to meet the completeness criteria in 40 CFR part 51 Appendix V, which must be met before formal EPA review.

B. Are there other versions of this rule?

There is no previous version of Rule 2021 in the SIP. SJVAPCD submitted Rule 2021 on November 18, 1993 as part of the District’s revised NSR program. The District has not submitted any revised versions since the most recent submittal. On October 3, 2017, the District provided additional information in support of Rule 2021. The rule provides limited exemptions to the SJVAPCD’s current program for preconstruction review and permitting of new or modified stationary sources under its jurisdiction.

C. What is the purpose of the submitted rule?

Rule 2021 exempts experimental research operations from Authority to Construct and Permit to Operate requirements as long as the facility meets all other rule requirements. Otherwise the source would be required to comply with Rule 2010—*Permits Required*. The District defines *Experimental Research Operations* as “any air pollution control device or technology or any industrial process or technology with reduced emissions which is: Innovative, not in common use for a particular process, not readily available from a commercial supplier, or funded as original research by a public agency.” The District determined that emissions from Experimental Research Operations exempted from permitting requirements pursuant to Rule 2021 will not adversely affect progress toward attainment or maintenance of any NAAQS.

II. The EPA’s Evaluation

A. How is the EPA evaluating the rule?

The EPA reviewed Rule 2021 for compliance with the applicable requirements of section 110(a)(2)(C) and associated regulations at 40 CFR 51.160–164. We also reviewed the rule for consistency with other CAA general requirements for SIP submittals, including requirements at section 110(a)(2)(A) regarding rule enforceability, and requirements at sections 110(l) and 193 for SIP revisions.

Section 110(a)(2)(C) of the Act requires each SIP to include a program to regulate the modification and construction of any stationary source within the areas covered by the SIP as necessary to assure attainment and maintenance of the NAAQS. The EPA’s regulations at 40 CFR 51.160–51.164 provide specific programmatic requirements to implement this statutory mandate.

Section 110(a)(2)(A) of the Act requires that regulations submitted to the EPA for SIP approval must be clear and legally enforceable. Section 110(l) of the Act prohibits the EPA from approving any SIP revisions that would interfere with any applicable requirement concerning attainment and reasonable further progress (RFP) or any other applicable requirement of the CAA. Section 193 of the Act prohibits the modification of a SIP-approved control requirement in effect before November 15, 1990 in a nonattainment area, unless the modification ensures equivalent or greater emission reductions of the relevant pollutant(s). With respect to procedures, CAA sections 110(a) and 110(l) require that a state conduct reasonable notice and hearing before adopting a SIP revision.

B. Do the rules meet the evaluation criteria?

With respect to procedural requirements, CAA sections 110(a)(2) and 110(l) require that revisions to a SIP be adopted by the state after reasonable notice and public hearing. Based on our review of the public process documentation included in the November 18, 1993 submittal of Rule 2021, we find that the SJVAPCD has provided sufficient evidence of public notice, opportunity for comment and a public hearing prior to adoption and submittal of these rules to the EPA.

With respect to the substantive requirements found in CAA sections 110(a)(2)(A) and (C), 110(l), 193, and 40 CFR 51.160–51.164, we evaluated Rule 2021 in accordance with the applicable CAA and regulatory requirements that apply to new source review permit programs. The permit exemption provided for experimental research operations is extremely narrow in scope, such that the emissions not subject to permit requirements are not expected to interfere with attainment or RFP. Therefore we find that Rule 2021 satisfies these requirements.

Our Technical Support Document, which can be found in the docket for this rulemaking, contains a more detailed discussion of our analysis.

III. Proposed Action and Public Comment

As authorized in section 110(k)(3) of the Act, the EPA is proposing to approve the submitted rule because it fulfills all relevant CAA requirements. We have concluded that our approval of the submitted rule would comply with the relevant provisions of CAA sections 110(a)(2), 110(l), and 193, and 40 CFR 51.160–51.164.

If we finalize this action as proposed, our action will be codified through

revisions to 40 CFR 52.220a (Identification of plan-in part).

We will accept comments from the public on this proposal until March 24, 2021.

III. Incorporation by Reference

In this rule, the EPA is proposing to include in a final EPA rule regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, the EPA is proposing to incorporate by reference the rule listed in Table 1 of this preamble. The EPA has made, and will continue to make, this document available through <https://www.regulations.gov> and in hard copy at the EPA Region IX Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information).

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 proposed action merely proposes to approve state law as meeting federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this proposed action:

- Is not a "significant regulatory action" subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4);
- Does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);

- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);

- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and
- Does not provide the EPA with the discretionary authority to address disproportionate human health or environmental effects with practical, appropriate, 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 the 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).

List of Subjects in 40 CFR Part 52

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

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

Dated: February 5, 2021.

Deborah Jordan,

Acting Regional Administrator, Region IX.

[FR Doc. 2021-02906 Filed 2-19-21; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R09-OAR-2020-0519; FRL-10017-54-Region 9]

Air Quality Implementation Plan; California; Mendocino County Air Quality Management District; Stationary Source Permits

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve two rule revisions to the Mendocino County Air Quality Management District (MCAQMD or "District") portion of the California State Implementation Plan

(SIP). These revisions concern the District's prevention of significant deterioration (PSD) permitting program for new and modified stationary sources of air pollution. We are proposing action on these local rules pursuant to requirements under Part C of Title I of the Clean Air Act as amended in 1990 (CAA or the "Act"). We are taking comments on this proposal and plan to follow with a final action.

DATES: Written comments must be received on or before March 24, 2021.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-R09-OAR-2020-0519 at <https://www.regulations.gov>, or via email to R9AirPermits@epa.gov. For comments submitted at [Regulations.gov](https://www.regulations.gov), follow the online instructions for submitting comments. Once submitted, comments cannot be removed or edited from [Regulations.gov](https://www.regulations.gov). For either manner of submission, the EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information the disclosure of which is restricted by statute.

Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.*, on the web, cloud, or other file sharing system). For additional submission methods, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section. For the full EPA public comment policy, information about CBI and multimedia submissions, and general guidance on making effective comments, please visit <https://www2.epa.gov/dockets/commenting-epa-dockets>. If you need assistance in a language other than English or if you are a person with disabilities who needs a reasonable accommodation at no cost to you, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section.

FOR FURTHER INFORMATION CONTACT: Amber Batchelder, EPA Region IX, 75 Hawthorne St., San Francisco, CA 94105; by phone: (415) 947-4174, or by email to batchelder.amber@epa.gov.

SUPPLEMENTARY INFORMATION: Throughout this document, "we," "us" and "our" refer to the EPA.

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I. The State's Submittal

A. What rules did the State submit?

Table 1 lists the rules addressed by this action with the dates that they were

adopted by the MCAQMD and submitted by the California Air Resources Board (CARB), the Governor's designee for California SIP submittals.

TABLE 1—SUBMITTED RULES

Rule No.	Rule title	Amended	Submitted
1–220	New Source Review Standards (Including PSD Evaluations)	4/7/2020	8/10/2020
1–230	Action on Applications	4/7/2020	8/10/2020

This proposed action serves as our formal determination that the submittal for Rules 1–220 and 1–230 meets the completeness criteria in 40 CFR part 51 Appendix V.

B. Are there other versions of these rules?

On July 3, 2017, the EPA finalized approval of Rule 1–230 and limited approval and limited disapproval of Rule 1–220. 82 FR 30770.

C. What is the purpose of the submitted rules?

On July 3, 2017, we listed the following two deficiencies in our final limited approval and limited disapproval of Rule 1–220:

- Rule 1–220 does not contain any provisions specifying that required air quality modeling shall be based on the applicable models, databases, and other requirements specified in Part 51 Appendix W; therefore, the requirements of 40 CFR 51.160(f) and 51.166(l) have not been met.

- The requirements of 40 CFR 51.166(r)(2)¹ have not been met because the rule does not include the necessary information about a source's obligations.

The District addressed the first deficiency by adding provisions to Rule 1–220 and addressed the second deficiency by revising Rule 1–230.

Rules 1–220 and 1–230 contain the requirements for review and permitting of individual stationary sources in the MCAQMD. The amended sections of these rules satisfy the statutory and regulatory requirements for the New Source Review (NSR) program, including the PSD program. The changes the District made to the rules listed above as they pertain to the PSD program were largely administrative in

nature and provide additional clarity to the rules.²

II. The EPA's Evaluation

A. How is the EPA evaluating these rules?

The EPA reviewed the revised portions of Rules 1–220 and 1–230 for compliance with the CAA's general requirements for SIPs in CAA section 110(a)(2), the EPA's regulations for stationary source permitting programs in 40 CFR part 51, 51.160–51.164 and 51.166, and the CAA requirements for SIP revisions in CAA section 110(l). The EPA is proposing approval of Rules 1–220: New Source Review Standards (Including PSD Evaluations) and 1–230: Action on Applications.

B. Do the rules meet the evaluation criteria?

With respect to procedural requirements, CAA sections 110(a)(2) and 110(l) require that revisions to a SIP be adopted by the state after reasonable notice and public hearing. Based on our review of the public process documentation included in the August 10, 2020 submittal of the MCAQMD Rules 1–220 and 1–230, we find that the MCAQMD has provided sufficient evidence of public notice, opportunity for comment and a public hearing prior to adoption and submittal of these rules to the EPA.

We have determined that the revised sections of the rules satisfy all of the statutory and regulatory requirements for a PSD permit program as set forth in the applicable provisions of Part C of Title I of the Act and in 40 CFR part 51, 51.160–51.164 and 51.166. The revisions to these rules address and correct the limited disapproval issues from our July 3, 2017 final action.

Our Technical Support Document, which can be found in the docket for this rule, contains a more detailed discussion and analysis of the approval criteria and the District's submittal.

III. Proposed Action and Public Comment

As authorized in section 110(k)(3) of the Act, the EPA is proposing to approve the submitted rules because they correct the previously identified deficiencies and fulfill all relevant CAA requirements. We will accept comments from the public on this proposal until March 24, 2021. If we finalize this action as proposed, our action will be codified through revisions to 40 CFR 52.220a (Identification of plan-in part).

IV. Incorporation by Reference

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

V. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable federal regulations. 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 Act. Accordingly, this action merely proposes to approve state law as meeting federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

¹ The 2017 final rule stated incorrectly that the criteria in 40 CFR 51.166(r)(1) had not been met. Our proposal notice (81 FR 95074, December 27, 2016) and Technical Support Document (TSD) correctly noted that only the criteria in 40 CFR 41.166(r)(2) had not been met. See e.g., Section 4.2, number 15 on Page 18 of the TSD for the 2017 final action.

² Rule 1–220 includes a potential typographical error. The term “bases” should be “databases.” This error does not impact applicability nor enforceability. We recommend correcting the language the next time the rule is amended. Please see the TSD, located in the docket for this rule, for additional information.

- Is not a “significant regulatory action” subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);

- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);

- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);

- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);

- Does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);

- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);

- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);

- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and

- Does not provide the EPA with the discretionary authority to address disproportionate human health or environmental effects with practical, appropriate, 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 the 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).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, New source review, Reporting and recordkeeping requirements.

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

Dated: February 5, 2021.

Deborah Jordan,

Acting Regional Administrator, Region IX.

[FR Doc. 2021–02912 Filed 2–19–21; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 665

[Docket No. 210211–0020]

RIN 0648–BJ82

Pacific Island Fisheries; Mariana Archipelago Bottomfish Annual Catch Limits and Accountability Measures

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

ACTION: Proposed rule; request for comments.

SUMMARY: This rulemaking proposes to establish annual catch limits (ACL) and annual catch targets (ACT) for bottomfish in Guam and the Commonwealth of the Northern Mariana Islands (CNMI), and accountability measures (AM) to correct or mitigate any overages by reducing the ACL and or ACT for the subsequent year. The proposed ACLs, ACTs, and AMs would be effective for fishing years 2020–2022 in Guam and for fishing years 2020–2023 in the CNMI. The proposed action supports the long-term sustainability of the bottomfish fishery in the Mariana Islands.

DATES: NMFS must receive comments by March 15, 2021.

ADDRESSES: You may submit comments on this document, identified by NOAA–NMFS–2020–0119, by either of the following methods:

- *Electronic Submission:* Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to <http://www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2020-0119>, click the “Comment Now!” icon, complete the required fields, and enter or attach your comments.

- *Mail:* Send written comments to Michael D. Tosatto, Regional Administrator, NMFS Pacific Islands Region (PIR), 1845 Wasp Blvd., Bldg. 176, Honolulu, HI 96818.

Instructions: NMFS may not consider comments sent by any other method, to any other address or individual, or received after the end of the comment period. All comments received are a

part of the public record and will generally be posted for public viewing on www.regulations.gov without change. All personal identifying information (e.g., name, address, etc.), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments (enter “N/A” in the required fields if you wish to remain anonymous).

NMFS prepared a draft environmental assessment (EA) that describes the potential impacts on the human environment that could result from the proposed ACLs and AMs. The draft EA and other supporting documents are available from www.regulations.gov.

FOR FURTHER INFORMATION CONTACT: Sarah Ellgen, NMFS Pacific Islands Regional Office, Sustainable Fisheries, 808–725–5173.

SUPPLEMENTARY INFORMATION: The Guam and CNMI bottomfish fisheries target an assemblage, or complex, of 13 bottomfish management unit species (BMUS), including emperors, snappers, groupers, and jacks. NMFS and the Western Pacific Fishery Management Council (Council) manage the bottomfish fisheries in the U.S. Exclusive Economic Zone (generally 3–200 nautical miles (nm) from shore) around Guam and the CNMI through the Fishery Ecosystem Plan for the Mariana Archipelago (FEP), under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act). The FEP contains a process for the Council and NMFS to specify ACLs, ACTs, and AMs, codified at 50 CFR 665.4.

The regulations require NMFS to specify an ACL and AM for each stock and stock complex of management unit species, as recommended by the Council, and considering the best available scientific, commercial, and other information about the fishery. If a fishery exceeds an ACL, the regulations require the Council to take action, which may include reducing the ACL for the subsequent fishing year by the amount of the overage, or other appropriate action. The specification of an ACT, which is set below the ACL, can help ensure that the catch does not exceed the ACL. When used, an ACT also serves as the basis for invoking accountability measures.

The Council and NMFS manage bottomfish as a single multi-species stock complex that is assessed as one unit whether the fish are in territorial or Federal waters. As a result, while most fishing for BMUS occurs in territorial waters, generally from the shoreline out

to 3 nm, catches from both territorial waters and Federal waters around the territories would be counted towards the specified ACT and ACL that applies only to Federal waters.

The Council recommended that NMFS specify ACLs for BMUS in Guam at 27,000 lb (12,247 kg) for each fishing year 2020–2022 and in the CNMI at 84,000 lb (38,102 kg) for each fishing year 2020–2023. The 2020 fishing year ended December 31, 2020. The Council also recommended an ACT of 78,000 lb (35,380 kg) for CNMI BMUS for the same period. The fishing year for bottomfish in the Mariana Islands is the calendar year. The Council based its recommendations on a 2019 benchmark stock assessment by the NMFS Pacific Islands Fisheries Science Center (PIFSC), and in consideration of the best available scientific, commercial, and other information about the fishery, and in accordance with the ACL process set forth in the FEP.

NMFS proposes to implement the Council's recommended AM to Guam and CNMI BMUS, which is to apply a three-year average catch to evaluate fishery performance against the ACLs and in the event of overage to adjust the ACL and or ACT for the subsequent year. Specifically, under the proposed AMs, NMFS and the Council would use the average catch of the past three fishing years to evaluate fishery performance against the ACL for a particular fishery. At the end of each fishing year, if NMFS and the Council determine that the average catch of the past three years for any fishery exceeds the specified ACL, NMFS would, by separate rulemaking, reduce the ACL in the subsequent year for that fishery by the amount of the overage. NMFS may also specify an ACT that is below the ACL, as recommended by the Council. When used, the ACT serves as the basis for invoking the AM. For CNMI, the ACT would also be subject to the same adjustment as the ACL for the subsequent fishing year. If the average catch from the most recent three-year period exceeds the ACT but remains below the ACL, then an overage adjustment would not be applied.

The 2019 stock assessment concluded that, in 2017, the Guam BMUS stock was overfished, but not subject to overfishing. NMFS adopted the findings of the assessment and notified the Council in February 2020. The Magnuson-Stevens Act requires the Council to prepare and implement an FEP, FEP amendment, or proposed regulations to rebuild the stock within two years of that notification (that is, by February 2022). Thus, the proposed Guam ACL will cover the period of 2021

through 2022, during which time the Council will develop the necessary action to rebuild the stock.

The 2019 stock assessment estimated the overfishing limit for Guam BMUS to be 36,000 lb (16,329 kg). The proposed Guam ACL corresponds to a 31 percent probability of overfishing, which is more conservative than the 50 percent risk threshold allowed under NMFS guidelines for National Standard 1 of the Magnuson-Stevens Act (NS1). It is likely that annual catch in 2020 through 2022 would not only approach the proposed ACL, but the three-year average of catch would exceed the proposed ACL. If the catch exceeds the three-year average, then the proposed post-season adjustment would be implemented to reduce the ACL in the subsequent year. The proposed ACLs and AMs are meant to prevent overfishing in accordance with NS1. ACLs designed to rebuild Guam bottomfish will be part of a subsequent Council rebuilding plan.

The 2019 stock assessment also concluded that in 2017 the CNMI BMUS stock was not overfished and did not experience overfishing. The assessment estimated the overfishing limit for CNMI BMUS to be 98,000 lb (44,452 kg). The CNMI ACL and ACT correspond to 39 percent and 34 percent probability of overfishing, respectively, which are more conservative than the 50 percent risk threshold allowed under NMFS guidelines for NS1 of the Magnuson-Stevens Act. NMFS does not anticipate that the CNMI fishery will reach the proposed ACT or ACL in any fishing year, nor will fishing for bottomfish be constrained during the fishing year.

NMFS will consider public comments on this proposed rule and will announce the final ACLs, ACTs, and AMs in the **Federal Register**. NMFS must receive any comments by the date provided in the **DATES** heading. NMFS may not consider any comments not postmarked or otherwise transmitted by that date. Regardless of the final ACLs, ACTs and AMs, all other management measures will continue to apply in the fisheries.

Classification

Pursuant to section 304(b)(1)(A) of the Magnuson-Stevens Act, the NMFS Assistant Administrator has determined that this proposed action is consistent with the FEP, other provisions of the Magnuson-Stevens Act, and other applicable laws, subject to further consideration after public comment.

Certification of Finding of No Significant Impact on Substantial Number of Small Entities

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration that this proposed rule, if adopted, would not have a significant economic impact on a substantial number of small entities. A description of the proposed action, why it is being considered, and the legal basis for it are contained in the preamble to this proposed rule.

The proposed rule would implement ACLs, ACTs, and AMs for the bottomfish in Guam and the CNMI. These measures would apply in 2020–2022 for Guam and in 2020–2023 for the CNMI. The Council recommended the proposed measures based on the most recent stock assessment for bottomfish in Guam and the CNMI, consistent with the Magnuson-Stevens Act and in accordance with the ACL process set forth in the FEP.

For the CNMI, NMFS proposes an ACL of 84,000 lb (38,102 kg), which is associated with a 39 percent risk of overfishing, which is more conservative than the 50 percent threshold allowed by the NS1 guidelines. The proposed ACL is a 63 percent reduction from the 228,000 lb (103,419 kg) ACL set in 2016 and 2017. This reduction is based on the most recent stock assessment, which incorporated several changes that resulted in markedly different outputs compared to the previous assessment that informed the 2016 and 2017 ACL. As described in the 2019 stock assessment and discussed at the October 2019 Council meeting, these changes included using a new species list, filtering data in a new way, and standardizing data for covariates that may affect the catch rate. NMFS did not specify ACLs for 2018 and 2019 while the Council and NMFS completed Amendment 5 to the FEP, which reclassified certain management unit species as ecosystem component species. Taking into account social, economic, and ecological considerations and management uncertainty, NMFS proposes to set an ACT at 78,000 lb (35,380 kg), which is associated with a 34 percent risk of overfishing.

For Guam, NMFS proposes an ACL of 27,000 lb (12,247 kg), which is associated with a 31 percent risk of overfishing and is a 59 percent reduction from the 66,000 lb (29,937 kg) ACL set in 2016 and 2017. Like in the CNMI, this reduction is based on the most recent stock assessment, which incorporated several changes that resulted in markedly different outputs

compared to the previous assessment. Additionally, according to the recent stock assessment, the stock is overfished, but not subject to overfishing. The previous assessment indicated the stock was fished at sustainable levels. NMFS adopted the findings of the assessment and so notified the Council in February 2020. ACLs designed to rebuild will be part of the Council's rebuilding plan.

The fishing year for bottomfish in Guam and the CNMI begins January 1 and ends December 31. NMFS would count bottomfish catches from both territorial waters and the Exclusive Economic Zone toward the ACL and ACT. Because real-time catch data are not currently available for this fishery, the Council and NMFS consider post-season AMs only. Specifically, for Guam, if NMFS and the Council determine that the average catch from the most recent three-year period exceeds the ACL, NMFS would reduce the ACL in the subsequent fishing years by the amount of the overage. For the CNMI, if NMFS and the Council determine that the average catch from the most recent three-year period exceeds the ACL, NMFS would reduce the ACL and ACT in the subsequent fishing year by the amount of the overage. If the average catch from the most recent three-year period exceeds the ACT, but is below the ACL, NMFS would not apply a post-season AM.

The bottomfish fisheries in Guam and the CNMI share many similarities in terms of gear, fishing methods, and species targeted. Many people who participate in the bottomfish fishery are either subsistence or part-time commercial fishermen, and they generally do not sell all of their catch. The majority of fishermen operate vessels less than 25 ft long, but a few longer vessels also participate in the fishery. Commercial vessels tend to concentrate effort on deepwater bottomfish at offshore banks, but they face higher operating costs than the shallow-water fishery operating closer to shore. In addition to sales to seafood dealers, some bottomfish sales are within community social networks.

In Guam, the number of vessels landing BMUS increased from 29 vessels in 2012 to 52 vessels in 2019. Annual BMUS catch is variable, but has been trending upwards over the past eight years, ranging from a low of 10,882 lb (4,936 kg) in 2015 to a high of 37,701 lb (17,101 kg) in 2019. The annual catch

for three out of the last eight years has exceeded the proposed ACL, and the average annual catch from 2017 to 2019 was 26,906 lb (12,204 kg), which is 99.6 percent of the proposed ACL. Data on the amount sold and revenue in 2019 are not available due to confidentiality requirements. Applying the 2018 percent sold (11 percent) and price per pound (\$5.05) to the 2019 estimated catch, yields a projection that 4,147 lb (1,881 kg) was sold in 2019 with an estimated revenue of \$20,942.

In the CNMI, the number of vessels landing BMUS has fluctuated from a high of 51 vessels in 2005 to a low of two vessels in 2018. In 2019, eight vessels landed BMUS. The average annual catch of BMUS from 2017 to 2019 was 23,223 lb (10,534 kg). In 2019, the fishery landed 21,012 lb (9,531 kg), which is 27 percent of the ACL and 30 percent of the ACT, respectively, so the fishery is unlikely to reach the ACL or ACT in future years. We estimate that the 2019 revenue for this fishery was \$35,840.

NMFS has established a small business size standard for businesses, including their affiliates, whose primary industry is commercial fishing (see 50 CFR 200.2). A business primarily engaged in commercial fishing is classified as a small business if it is independently owned and operated, is not dominant in its field of operation (including its affiliates), and its combined annual receipts are not in excess of \$11 million for all of its affiliated operations worldwide. Based on available information, NMFS has determined that all vessels engaging in the Guam and CNMI commercial and non-commercial bottomfish fisheries (NAICS Code: 114111) are small entities. That is, they are engaged in the business of finfish harvesting, independently owned or operated, not dominant in their field of operation, and have annual gross receipts not in excess of \$11 million. Therefore, there would be no disproportionate economic impacts between large and small entities. Furthermore, NMFS has determined that there would be no disproportionate economic impacts among the universe of vessels based on gear, home port, or vessel length.

Even though this proposed action would apply to a substantial number of vessels, this action is not expected to result in significant adverse economic impact to individual vessels. While the fisheries could reach or exceed the ACL

or ACT, the catch data are not available until six months after the local resource agencies have collected the data. Therefore, the proposed rule would not subject the fisheries to an in-season AM, such as a fishery closure and, without an in-season AM, fishing activity is not likely to be constrained.

The proposed action does not duplicate, overlap or conflict with other Federal rules and is not expected to have significant impact on small entities (as discussed above), organizations or government jurisdictions. The proposed action also will not place a substantial number of small entities at a significant competitive disadvantage to large entities. For the reasons above, NMFS does not expect the proposed action to have a significant economic impact on a substantial number of small entities. As such, an initial regulatory flexibility analysis is not required and none has been prepared.

This proposed rule has been determined to be not significant for purposes of Executive Order 12866.

This proposed rule contains no information collection requirements under the Paperwork Reduction Act of 1995.

List of Subjects in 50 CFR Part 665

Accountability measures, Annual catch limits, Bottomfish, Fisheries, Fishing, Guam, Mariana Archipelago, Northern Mariana Islands, Pacific Islands.

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

Dated: February 12, 2021.

Samuel D. Rauch III,

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

For the reasons set out in the preamble, NMFS proposes to amend 50 CFR part 665 as follows:

PART 665—FISHERIES IN THE WESTERN PACIFIC

■ 1. The authority citation for 50 CFR part 665 continues to read as follows:

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

■ 2. Add § 665.408 to read as follows:

§ 665.408 Annual Catch Limits (ACL) and Annual Catch Targets (ACT).

(a) In accordance with § 665.4, the ACL and ACT for Guam and CNMI bottomfish MUS fisheries for each fishing year are as follows:

TABLE 1 TO PARAGRAPH (a)

	2020	2021	2022
Guam ACL (lb)	27,000	27,000	27,000

TABLE 2 TO PARAGRAPH (a)

	2020	2021	2022	2023
CNMI ACL (lb)	84,000	84,000	84,000	84,000
ACT (lb)	78,000	78,000	78,000	78,000

(b) If the average catch of the three most recent years exceeds the specified ACL or ACT in a fishing year, the

Regional Administrator will reduce the ACL and or ACT for the subsequent year

by the amount of the overage in a separate rulemaking.

[FR Doc. 2021-03240 Filed 2-19-21; 8:45 am]

BILLING CODE 3510-22-P

Notices

Federal Register

Vol. 86, No. 33

Monday, February 22, 2021

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

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[Doc. No AMS-FGIS-20-0068]

Opportunity for Designation in the Urbana, Illinois; Sandusky, Michigan; Davenport, Iowa; Enid, Oklahoma; Keokuk, Iowa; Marshall, Michigan; Council Bluffs, Iowa; Fremont, Nebraska; Annapolis, Maryland; Amarillo, Texas; Cairo, Illinois; Baton Rouge, Louisiana; Raleigh, North Carolina; Belmont, Iowa; and Ogden, Utah, Areas; Request for Comments on the Official Agencies Servicing This Area

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Notice.

SUMMARY: The designations of the official agencies listed in

SUPPLEMENTARY INFORMATION below will end on the prescribed dates. We are asking persons or governmental agencies interested in providing official services in the areas presently served by these agencies to submit an application for designation. The Agricultural

Marketing Service (AMS) encourages submissions from traditionally underrepresented individuals, organizations, and businesses to reflect the diversity of this industry. AMS encourages submissions from qualified applicants, regardless of race, color, age, sex, sexual orientation, gender identity, national origin, religion, disability status, protected veteran status, or any other characteristic protected by law. In addition, we are asking for comments on the quality of services provided by the following designated agencies: Champaign-Danville Grain Inspection Departments, Inc. (Champaign); Detroit Grain Inspection Service, Inc. (Detroit); Eastern Iowa Grain Inspection and Weighing Service, Inc. (Eastern Iowa); Enid Grain Inspection Company, Inc. (Enid); Keokuk Grain Inspection Service (Keokuk); Michigan Grain Inspection Services, Inc. (Michigan); Omaha Grain Inspection Service, Inc. (Omaha); Fremont Grain Inspection Department, Inc. (Fremont); Maryland Department of Agriculture (Maryland); Amarillo Grain Exchange, Inc. (Amarillo); Cairo Grain Inspection Agency, Inc. (Cairo); Louisiana Department of Agriculture and Forestry (Louisiana); North Carolina Department of Agriculture (North Carolina); D.R. Schaal Agency, Inc. (Schaal); and Utah Department of Agriculture and Food (Utah).

DATES: Applications and comments must be received by March 24, 2021.

ADDRESSES: Submit applications and comments concerning this Notice using any of the following methods:

- *To apply for Designation:* Use FGISONline (<https://fgisonline.ams.usda.gov>) and then click on the Delegations/Designations and Export Registrations (DDR) link. You will need to obtain an FGISONline customer number and USDA eAuthentication username and password prior to applying.

Marketing Service (AMS) encourages submissions from traditionally underrepresented individuals, organizations, and businesses to reflect the diversity of this industry. AMS encourages submissions from qualified applicants, regardless of race, color, age, sex, sexual orientation, gender identity, national origin, religion, disability status, protected veteran status, or any other characteristic protected by law. In addition, we are asking for comments on the quality of services provided by the following designated agencies: Champaign-Danville Grain Inspection Departments, Inc. (Champaign); Detroit Grain Inspection Service, Inc. (Detroit); Eastern Iowa Grain Inspection and Weighing Service, Inc. (Eastern Iowa); Enid Grain Inspection Company, Inc. (Enid); Keokuk Grain Inspection Service (Keokuk); Michigan Grain Inspection Services, Inc. (Michigan); Omaha Grain Inspection Service, Inc. (Omaha); Fremont Grain Inspection Department, Inc. (Fremont); Maryland Department of Agriculture (Maryland); Amarillo Grain Exchange, Inc. (Amarillo); Cairo Grain Inspection Agency, Inc. (Cairo); Louisiana Department of Agriculture and Forestry (Louisiana); North Carolina Department of Agriculture (North Carolina); D.R. Schaal Agency, Inc. (Schaal); and Utah Department of Agriculture and Food (Utah).

• *To submit Comments:* Go to [Regulations.gov](http://www.regulations.gov) (<http://www.regulations.gov>). Instructions for submitting and reading comments are detailed on the site. Interested persons are invited to submit written comments concerning this notice. All comments must be submitted through the Federal e-rulemaking portal at <http://www.regulations.gov> and should reference the document number and the date and page number of this issue of the **Federal Register**. All comments submitted in response to this notice will be included in the record and will be made available to the public. Please be advised that the identity of the individuals or entities submitting comments will be made public on the internet at the address provided above.

Read Applications and Comments: All comments will be available for public inspection online at <http://www.regulations.gov>. If you would like to view the applications, please contact us at FGISQACD@usda.gov (7 CFR 1.27(c)).

FOR FURTHER INFORMATION CONTACT: Joshua Diaz-Lopez, (816) 266-5240, or FGISQACD@usda.gov.

SUPPLEMENTARY INFORMATION: The designations of the official agencies listed below will end on the prescribed dates:

Official agency	Headquarters location and telephone	Designation end
Champaign-Danville Grain Inspection Department	Urbana, IL, 217-344-9306	3/31/2021
Detroit Grain Inspection Service, Inc	Sandusky, MI, 810-404-3786	3/31/2021
Eastern Iowa Grain Inspection Company, Inc	Davenport, IA, 563-322-7149	3/31/2021
Enid Grain Inspection Company	Enid, OK, 580-233-1122	3/31/2021
Keokuk Grain Inspection Service	Keokuk, IA, 319-524-4695	3/31/2021
Michigan Grain Inspection Services, Inc	Marshall, MI, 269-781-2711	3/31/2021
Omaha Grain Inspection Service, Inc	Council Bluffs, IA, 712-256-2590	3/31/2021
Fremont Grain Inspection Department, Inc	Fremont, NE, 402-721-1270	6/30/2021
Maryland Department of Agriculture	Annapolis, MD, 410-841-5769	6/30/2021
Amarillo Grain Exchange, Inc	Amarillo, TX, 806-372-8511	9/30/2021
Cairo Grain Inspection Agency, Inc	Cairo, IL, 618-734-0689	9/30/2021
Louisiana Department of Agriculture and Forestry	Baton Rouge, LA, 318-428-0116	9/30/2021
North Carolina Department of Agriculture	Raleigh, NC, 919-733-4491	9/30/2021
D.R. Schaal Agency, Inc	Belmont, IA, 641-444-3122	9/30/2021
Utah Department of Agriculture and Food	Ogden, UT, 801-392-2292	9/30/2021

Section 7(f) of the United States Grain Standards Act (USGSA) authorizes the Secretary to designate a qualified applicant to provide official services in a specified area after determining that the applicant is better able than any other applicant to provide such official services (7 U.S.C. 79(f)). Under section 7(g) of the USGSA, designations of official agencies are effective for no longer than five years, unless terminated by the Secretary, and may be renewed according to the criteria and procedures prescribed in section 7(f) of the USGSA.

Areas Open for Designation

Champaign, Detroit, Eastern Iowa, Enid, Keokuk, Michigan and Omaha: Areas of designation include Wisconsin and parts of Michigan, Illinois, Iowa, Indiana, Oklahoma, Texas, Ohio and Nebraska. Please see the March 29, 2016, issue of the **Federal Register** (81 FR 17428–17431) for descriptions of the areas open for designation.

Maryland and Fremont: Areas of designation include Maryland and parts of Iowa and Nebraska. Please see the March 29, 2016, issue of the **Federal Register** (81 FR 17431–17432) for descriptions of the areas open for designation.

Amarillo, Cairo, Louisiana, and Utah: Areas of designation include Louisiana; Utah; and parts of Texas, Oklahoma, Illinois, Kentucky, and Tennessee. Please see the July 1, 2015, issue of the **Federal Register** (80 FR 37581 (only with respect to Utah)) and the August 24, 2016, issue of the **Federal Register** (81 FR 57882–57885) for descriptions of the areas open for designation.

North Carolina and Schaal: Areas of designation include New Jersey, South Carolina, New York, Georgia, North Carolina, and parts of Iowa and Minnesota. Please see the June 3, 2020, issue of the **Federal Register** (85 FR 34160–34161) for descriptions of the areas open for designation.

Opportunity for Designation

Interested persons or governmental agencies may apply for designation to provide official services in the geographic areas of the official agencies specified above under the provisions of section 7(f) of the USGSA and 7 CFR 800.196. Designation in the specified geographic areas for Champaign, Detroit, Eastern Iowa, Enid, Keokuk, Michigan and Omaha begins April 1, 2021. Designation in the specified geographic areas for Fremont and Maryland begins July 1, 2021. Designation in the specified geographic areas for Amarillo, Cairo, Louisiana, North Carolina, Schaal, and Utah begins October 1, 2021. To apply for designation or to

request more information on the geographic areas serviced by these official agencies, contact Joshua Diaz-Lopez at the address listed above.

Request for Comments

We are publishing this Notice to provide interested persons the opportunity to comment on the quality of services provided by the Champaign, Detroit, Eastern Iowa, Enid, Keokuk, Michigan, Omaha, Fremont, Maryland, Amarillo, Cairo, Louisiana, North Carolina, Schaal, and Utah official agencies. In the designation process, we are particularly interested in receiving comments citing reasons and pertinent data supporting or objecting to the designation of the applicant(s). Such comments should be submitted through the Federal e-rulemaking portal at <http://www.regulations.gov>.

We consider applications, comments, and other available information when determining which applicants will be designated.

Authority: 7 U.S.C. 71–87k.

Bruce Summers,

Administrator, Agricultural Marketing Service.

[FR Doc. 2021–03468 Filed 2–19–21; 8:45 am]

BILLING CODE P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[Doc No. AMS–FGIS–20–0061]

Mycotoxin Test Kit Design Specifications and Performance Criteria

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Notice; reopening of comment period.

SUMMARY: Notice is hereby given that the comment period is reopened for the notice that was published in the **Federal Register** on December 18, 2020. The publication invited comments on the changes that the Agricultural Marketing Service (AMS) proposes to its existing mycotoxin test kit criteria.

DATES: Comments are due by March 24, 2021.

ADDRESSES: To submit comments: Go to *Regulations.gov* (<http://www.regulations.gov>). Instructions for submitting and reading comments are detailed on the site. Interested persons are invited to submit written comments concerning this notice. All comments must be submitted through the Federal e-rulemaking portal at <http://www.regulations.gov> and should

reference the document number and the date and page number of this issue of the **Federal Register**. All comments submitted in response to this notice will be included in the record and will be made available to the public. Please be advised that the identity of the individuals or entities submitting comments will be made public on the internet at the address provided above.

FOR FURTHER INFORMATION CONTACT: Thomas A. Weber, Analytical Chemistry Branch Chief, Technology and Science Division, Federal Grain Inspection Service, AMS, USDA; telephone (816) 891–0449; or email Thomas.A.Weber@usda.gov.

SUPPLEMENTARY INFORMATION: A notice seeking comments on proposed changes to mycotoxin test kit criteria was published in the **Federal Register** at 85 FR 82427 on December 18, 2020. The original 30-day comment period provided in the notice closed on January 19, 2021. As of January 11, 2020, four stakeholders submitted comments requesting an extension of the comment period. AMS is reopening the comment period to ensure that interested persons have sufficient time to review and comment on the notice. The comment period is reopened for 30 days from the date of publication of this notice.

Authority: 7 U.S.C. 71–87k, 7 U.S.C. 1621–1627.

Bruce Summers,

Administrator, Agricultural Marketing Service.

[FR Doc. 2021–03469 Filed 2–19–21; 8:45 am]

BILLING CODE P

DEPARTMENT OF COMMERCE

Economic Development Administration

Notice of Petitions by Firms for Determination of Eligibility to Apply for Trade Adjustment Assistance

AGENCY: Economic Development Administration, U.S. Department of Commerce.

ACTION: Notice and opportunity for public comment.

SUMMARY: The Economic Development Administration (EDA) has received petitions for certification of eligibility to apply for Trade Adjustment Assistance from the firms listed below. Accordingly, EDA has initiated investigations to determine whether increased imports into the United States of articles like or directly competitive with those produced by each of the firms contributed importantly to the total or partial separation of the firms'

workers, or threat thereof, and to a

decrease in sales or production of each petitioning firm.

SUPPLEMENTARY INFORMATION:

LIST OF PETITIONS RECEIVED BY EDA FOR CERTIFICATION OF ELIGIBILITY TO APPLY FOR TRADE ADJUSTMENT ASSISTANCE

[2/6/2021 through 2/12/2021]

Firm name	Firm address	Date accepted for investigation	Product(s)
Screen Graphics of Florida, Inc.	1801 North Andrews Avenue, Pompano Beach, FL 33069.	2/9/2021	The firm manufactures printed signs and printed graphics.
Heritage Mold, Inc	3170 Forest View Road, Rockford, IL 61109.	2/9/2021	The firm manufactures compression molds for producing plastic products.
Never Summer Industries, Inc	3838 Eudora Way, Denver, CO 80207.	2/10/2021	The firm manufactures snowboards.
Ski Fitting Science, LLC d/b/a Wagner Custom.	620 Mountain Village Boulevard, Telluride, CO 81435.	2/12/2021	The firm manufactures skis.

Any party having a substantial interest in these proceedings may request a public hearing on the matter. A written request for a hearing must be submitted to the Trade Adjustment Assistance Division, Room 71030, Economic Development Administration, U.S. Department of Commerce, Washington, DC 20230, no later than ten (10) calendar days following publication of this notice. These petitions are received pursuant to section 251 of the Trade Act of 1974, as amended.

Please follow the requirements set forth in EDA's regulations at 13 CFR 315.9 for procedures to request a public hearing. The Catalog of Federal Domestic Assistance official number and title for the program under which these petitions are submitted is 11.313, Trade Adjustment Assistance for Firms.

Bryan Borlik,
Director.

[FR Doc. 2021-03451 Filed 2-19-21; 8:45 am]

BILLING CODE 3510-WH-P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[B-9-2021]

Foreign-Trade Zone (FTZ) 18—San Jose, California; Notification of Proposed Production Activity; Enovix Corporation (Lithium Ion Metal Batteries), Fremont, California

Enovix Corporation (Enovix) submitted a notification of proposed production activity to the FTZ Board for its facility in Fremont, California. The notification conforming to the requirements of the regulations of the FTZ Board (15 CFR 400.22) was received on February 10, 2021.

The Enovix facility is located within Subzone 18K. The facility is used for the production of lithium ion metal

batteries. Pursuant to 15 CFR 400.14(b), FTZ activity would be limited to the specific foreign-status materials and components and specific finished product described in the submitted notification (as described below) and subsequently authorized by the FTZ Board.

Production under FTZ procedures could exempt Enovix from customs duty payments on the foreign-status components used in export production. On its domestic sales, for the foreign-status materials/components noted below, Enovix would be able to choose the duty rates during customs entry procedures that apply to lithium ion metal single cell batteries (3.0–5.0 volts) (duty rates, 2.7% or 3.4%). Enovix would be able to avoid duty on foreign-status components which become scrap/waste. Customs duties also could possibly be deferred or reduced on foreign-status production equipment.

The components and materials sourced from abroad include: lithium foil; alumina powder; toluene; N-methylpyrrolidone solvent; adhesive; electrolytes; ethylene copolymers; polyvinylidene fluoride/polyvinylidene difluoride (PVDF) fluoropolymer; epoxide resin; self-adhesive polyimide plastic tape; separators (polyethylene plastic film); polypropylene/polyethylene plastic film; polypropylene plastic pouches; stainless steel dye cuts; copper wire; copper foil; aluminum wire; aluminum block; aluminum tabs; nickel tabs; nickel flag tabs; nickel grommets; coated copper anode electrodes; coated aluminum cathode electrodes; internal stainless steel securing constraints for cells; internal stainless steel endplates; resettable fuses; aluminum busbar; and, copper busbar (duty rate ranges from duty-free to 6.5%). The request also indicates that certain materials/components are subject to duties under

Section 232 of the Trade Expansion Act of 1962 (Section 232) or Section 301 of the Trade Act of 1974 (Section 301), depending on the country of origin. The applicable Section 232 and Section 301 decisions require subject merchandise to be admitted to FTZs in privileged foreign status (19 CFR 146.41).

Public comment is invited from interested parties. Submissions shall be addressed to the Board's Executive Secretary and sent to: *ftz@trade.gov*. The closing period for their receipt is April 5, 2021.

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

For further information, contact Diane Finver at *Diane.Finver@trade.gov* or (202) 482-1367.

Dated: February 16, 2021.

Elizabeth Whiteman,
Acting Executive Secretary.

[FR Doc. 2021-03509 Filed 2-19-21; 8:45 am]

BILLING CODE 3510-DS-P

DEPARTMENT OF COMMERCE

International Trade Administration

[C-570-085]

Certain Quartz Surface Products From the People's Republic of China: Rescission of Countervailing Duty Administrative Review; 2018-2019

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

SUMMARY: The Department of Commerce (Commerce) is rescinding the administrative review of the countervailing duty (CVD) order on certain quartz surface products (quartz surface products) from the People's Republic of China (China) for the period

September 21, 2018, through December 31, 2019, based on the timely withdrawals of requests for review.

DATES: Applicable February 22, 2021.

FOR FURTHER INFORMATION CONTACT: Joshua Tucker or Peter Skarlatos, AD/CVD Operations, Office II, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482-2044 and (202) 482-0324, respectively.

SUPPLEMENTARY INFORMATION:

Background

On July 1, 2020, Commerce published in the **Federal Register** a notice of opportunity to request an administrative review of the CVD order on quartz surface products from China for the period September 21, 2018 through December 31, 2019.¹ In July 2020, Commerce received timely-filed requests for an administrative review from Cosmos Granite (WEST) and Cosmos Granite (South East) (collectively, Cosmos); Foshan Adamant Science & Technology Co., Ltd. (Foshan Adamant); National Stoneworks, LLC (National Stoneworks); Quartz Master LLC (Quartz Master); and Unique Stone Concepts LLC (Unique), in accordance with section 751(a) of the Tariff Act of 1930, as amended (the Act), and 19 CFR 351.213(b).²

On September 3, 2020, based upon these requests and in accordance with section 19 CFR 351.221(c)(1)(i), Commerce published in the **Federal Register** a notice initiating an administrative review of the CVD order on quartz surface products from China.³ In September and December 2020, Cosmos, Foshan Adamant, National Stoneworks, Quartz Master, and Unique timely withdrew their requests for an

¹ See *Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity to Request Administrative Review*, 85 FR 39531 (July 1, 2020).

² See Cosmos' Letter, "Quartz Surface Products from the PRC; C-570-085; Request for Administrative Review," dated July 31, 2020; Foshan Adamant's Letter, "Request for Administrative Review of the Countervailing Duty Order on Quartz Surface Products from the People's Republic of China," dated July 31, 2020; National Stoneworks' Letter, "Quartz Surface Products from the People's Republic of China; Request for Administrative Review," dated July 31, 2020; Quartz Master's Letter, "Request for Administrative Review of the Countervailing Duty Order on Quartz Surface Products from the People's Republic of China," dated July 31, 2020; and Unique's Letter, "Quartz Surface Products from the PRC; C-570-085; Request for Administrative Review," dated July 31, 2020.

³ See *Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 85 FR 54983 (September 3, 2020).

administrative review of all companies for which they had requested a review.⁴

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 who requested the review withdraws the request within 90 days of the date of publication of notice of initiation of the requested review. As noted above, all parties withdrew their requests for review within 90 days of the publication date of the notice of initiation, and no other parties requested an administrative review of the order. Therefore, in accordance with 19 CFR 351.213(d)(1), we are rescinding the administrative review of the CVD order on quartz surface products from China covering the period September 21, 2018 through December 31, 2019, in its entirety.

Assessment

Commerce intends to instruct U.S. Customs and Border Protection (CBP) to assess countervailing duties on all appropriate entries. Countervailing duties shall be assessed at rates equal to the cash deposit of estimated countervailing duties 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 35 days after publication of this notice in the **Federal Register**.

Administrative Protective Order

This notice serves as the only reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3), which

⁴ See Quartz Masters' Letter, "Partial Withdrawal of Request for Administrative Review of the Countervailing Duty Order on Certain Quartz Surface Products from the People's Republic of China," dated September 18, 2020; Cosmos' Letter, "Quartz Surface Products from the PRC; C-570-085; Withdrawal Request for Administrative Review," dated December 2, 2020; Foshan Adamant's Letter, "Foshan Adamant's Withdrawal of Request for Administrative Review of the Countervailing Duty Order on Quartz Surface Products from the People's Republic of China," dated December 2, 2020; National Stoneworks' Letter, "Quartz Surface Products from the People's Republic of China; Withdrawal of Request for Administrative Review," dated December 2, 2020; Quartz Master's Letter, "Quartz Surface Products from the People's Republic of China; Withdrawal of Request for Administrative Review," dated December 2, 2020; and Unique's Letter, "Quartz Surface Products from the PRC; C-570-085; Withdrawal Request for Administrative Review," dated December 2, 2020.

continues to govern business proprietary information. 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.

Dated: February 12, 2021.

James Maeder,

Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. 2021-03491 Filed 2-19-21; 8:45 am]

BILLING CODE 3510-DS-P

DEPARTMENT OF COMMERCE

International Trade Administration

[C-580-884]

Certain Hot-Rolled Steel Flat Products From the Republic of Korea: Preliminary Results of Countervailing Duty Administrative Review; 2018

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

SUMMARY: The Department of Commerce (Commerce) preliminarily determines that countervailable subsidies are being provided to Hyundai Steel Co., Ltd. (Hyundai Steel), a producer and exporter of certain hot-rolled steel flat products (hot-rolled steel) from the Republic of Korea (Korea). The period of review is January 1, 2018, through December 31, 2018.

DATES: Applicable February 22, 2021.

FOR FURTHER INFORMATION CONTACT: Annatheia Cook, AD/CVD Operations, Office V, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482-0250.

SUPPLEMENTARY INFORMATION:

Background

On December 11, 2019, Commerce published a notice of initiation of an administrative review of the countervailing duty (CVD) order on hot-rolled steel from Korea.¹ On April 24, 2020, Commerce tolled all deadlines in

¹ See *Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 84 FR 67712 (December 11, 2019), as corrected by *Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 85 FR 3014 (January 17, 2020). In both of these notices, Hyundai Steel is referred to as "Hyundai Steel Company."

administrative reviews by 50 days.² On July 21, 2020, Commerce tolled all deadlines in administrative reviews by an additional 60 days.³ On October 1, 2020, Commerce extended the deadline for issuance of the preliminary results of this review by 120 days, until February 17, 2021.⁴

For a complete description of the events that followed the initiation of this review, see the Preliminary Decision Memorandum.⁵ A list of topics discussed in the Preliminary Decision Memorandum is included 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 registered users at <http://access.trade.gov>. In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly at <http://enforcement.trade.gov/frn/>. The signed and electronic versions of the Preliminary Decision Memorandum are identical in content.

Scope of the Order

The merchandise covered by the order is hot-rolled steel. For a complete description of the scope of the order, see the Preliminary Decision Memorandum.

Methodology

Commerce is conducting this review in accordance with section 751(a)(1)(A) of the Tariff Act of 1930, as amended (the Act). For each of the subsidy programs found countervailable, we preliminarily determine that there is a subsidy, *i.e.*, a financial contribution from an authority that gives rise to a benefit to the recipient, and that the subsidy is specific.⁶ For a full description of the methodology

² See Memorandum, "Tolling of Deadlines for Antidumping and Countervailing Duty Administrative Reviews in Response to Operational Adjustments Due to COVID-19," dated April 24, 2020.

³ See Memorandum, "Tolling of Deadlines for Antidumping and Countervailing Duty Administrative Reviews," dated July 21, 2020.

⁴ See Memorandum, "Certain Hot-Rolled Steel Flat Products from the Republic of Korea: Extension of Deadline for Preliminary Results of Countervailing Duty Administrative Review, 2018," dated October 1, 2020.

⁵ See Memorandum, "Decision Memorandum for the Preliminary Results of the Countervailing Duty Administrative Review, 2018: Certain Hot-Rolled Steel Flat Products from the Republic of Korea," dated concurrently with, and hereby adopted by, this notice (Preliminary Decision Memorandum).

⁶ See sections 771(5)(B) and (D) of the Act regarding financial contribution; section 771(5)(E) of the Act regarding benefit; and section 771(5A) of the Act regarding specificity.

underlying our conclusions, see the Preliminary Decision Memorandum.

Preliminary Results of Review

As a result of this review, we preliminarily determine the following net countervailable subsidy rate for the period January 1, 2018, through December 31, 2018:

Company	Net countervailable subsidy rate (percent)
Hyundai Steel Co., Ltd.	0.51

Assessment Rate

Pursuant to section 751(a)(2)(C) of the Act, upon issuance of the final results, Commerce shall determine, and Customs and Border Protection (CBP) shall assess, countervailing duties on all appropriate entries covered by this review. 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 Rate

Pursuant to section 751(a)(2)(C) of the Act, Commerce intends to instruct CBP to collect cash deposits of estimated countervailing duties in the amount indicated above with regard to shipments of subject merchandise entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of this review. For all non-reviewed firms, we will instruct CBP to continue to collect cash deposits of estimated countervailing duties at the most recent company-specific or all-others rate applicable to the company, as appropriate. These cash deposit instructions, when imposed, shall remain in effect until further notice.

Disclosure and Public Comment

Commerce intends to disclose to parties to this proceeding the calculations performed in reaching the preliminary results within five days after the date of publication of these preliminary results.⁷

Case briefs or other written comments may be submitted to the Assistant Secretary for Enforcement and Compliance at a date to be determined.

⁷ See 19 CFR 351.224(b).

Rebuttal briefs, limited to issues raised in case briefs, may be filed within seven days⁸ after the time limit for filing case briefs. Parties who submit case or rebuttal briefs are requested to submit with each argument: (1) a statement of the issue; (2) a brief summary of the argument; and (3) a table of authorities.⁹

Interested parties who wish to request a hearing must do so within 30 days of publication of these preliminary results by submitting a written request to the Assistant Secretary for Enforcement and Compliance using Enforcement and Compliance's ACCESS system.¹⁰ Requests should contain the party's name, address, and telephone number, the number of participants, whether any participant is a foreign national, and a list of the issues to be discussed. Issues raised in the hearing will be limited to those raised in the respective case and rebuttal briefs.¹¹ If a request for a hearing is made, Commerce intends to hold the hearing at a time and date to be determined.¹² Parties should confirm the date and time of the hearing two days before the scheduled date.

An electronically-filed document must be received successfully in its entirety by ACCESS by 5:00 p.m. Eastern Time on the established deadline.

Final Results

Unless the deadline is extended pursuant to section 751(a)(3)(A) of the Act, Commerce intends to issue the final results of this administrative review, including the results of our analysis of the issues raised by the parties in their comments, within 120 days after publication of these preliminary results.

Notification to Interested Parties

This administrative review and notice are issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Act, and 19 CFR 351.213 and 19 CFR 351.221(b)(4).

Dated: February 16, 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. Period of Review
- IV. Scope of the Order
- V. Subsidies Valuation Information

⁸ See *Temporary Rule Modifying AD/CVD Service Requirements Due to COVID-19; Extension of Effective Period*, 85 FR 41363 (July 10, 2020).

⁹ See 19 CFR 351.309(c)(2) and (d)(2).

¹⁰ See 19 CFR 351.310(c).

¹¹ *Id.*

¹² See 19 CFR 351.310.

VI. Analysis of Programs
VII. Recommendation

[FR Doc. 2021-03510 Filed 2-19-21; 8:45 am]

BILLING CODE 3510-DS-P

DEPARTMENT OF COMMERCE

International Trade Administration

[C-489-817]

Certain Oil Country Tubular Goods From the Republic of Turkey: Rescission of Countervailing Duty Administrative Review: 2019

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

SUMMARY: The Department of Commerce (Commerce) is rescinding the administrative review of the countervailing duty (CVD) order on certain oil country tubular goods (OCTG) from the Republic of Turkey (Turkey) for the period of review January 1, 2019, through December 31, 2019, based on the timely withdrawal of the request for review.

DATES: Applicable February 22, 2021.

FOR FURTHER INFORMATION CONTACT: Dusten Hom, AD/CVD Operations, Office 1, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482-5075.

SUPPLEMENTARY INFORMATION:

Background

On September 1, 2020, Commerce published a notice of opportunity to request an administrative review of the CVD order on OCTG from Turkey for the period January 1, 2019, through December 31, 2019.¹ In accordance with section 751(a) of the Tariff Act of 1930, as amended (the Act), and 19 CFR 351.213(b), Commerce received a timely-filed request for an administrative review from the United States Steel Corporation, Maverick Tube Corporation, Tenaris Bay City, Inc, and IPSCO Tubulars Inc. (collectively, the Domestic Interested Parties) for the following exporters/producers of subject merchandise: APL Apollo Tubes Ltd.; BAUER Casings Makina San. Ve Tic. Ltd.; Binayak Hi Tech Engineering Ltd.; Borusan Mannesmann Boru Sanayi ve Ticaret A.S.; Borusan Mannesmann Boru Yatirim Holding; Borusan Istikbal Ticaret; Goktas Yassi Hadde Mamulleri San. ve Tic. A.S.; ISMT Limited; Noksel

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

Celik Boru Sanayi A.S.; and TPAO (Turkiye Petrolleri Anonim Ortakligi).²

On October 30, 2020, pursuant to this request and in accordance with 19 CFR 351.221(c)(1)(i), Commerce published a notice initiating an administrative review of the CVD order on OCTG from Turkey with respect to the ten requested companies.³ On January 27, 2021, the Domestic Interested Parties withdrew their request for an administrative review of all companies for which this administrative review was initiated.⁴

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 or parties that requested a review withdraws the request within 90 days of the publication date of the notice of initiation of the requested review. As noted above, the Domestic Interested Parties withdrew their request for review of all companies within 90 days of the publication date of the notice of initiation. No other parties requested an administrative review of the CVD order. Therefore, in accordance with 19 CFR 351.213(d)(1), we are rescinding this administrative review in its entirety.

Assessment

Commerce will instruct U.S. Customs and Border Protection (CBP) to assess countervailing duties on all appropriate entries of OCTG from Turkey. Countervailing duties shall be assessed at rates equal to the cash deposit of estimated countervailing duties 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 notice in the **Federal Register**.

Notification Regarding Administrative Protective Order

This notice serves as the only reminder to all 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

² See Domestic Interested Parties' Letter, "Oil Country Tubular Goods from Turkey: Request for Administrative Review of Countervailing Duty Order," dated September 30, 2020.

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

⁴ See Domestic Interested Parties' Letter, "Oil Country Tubular Goods from Turkey: Withdrawal of Request for Review of Countervailing Duty Order," dated January 27, 2021.

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 violation which is subject to sanction.

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: February 16, 2021.

James Maeder,

Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. 2021-03490 Filed 2-19-21; 8:45 am]

BILLING CODE 3510-DS-P

DEPARTMENT OF COMMERCE

International Trade Administration

[Application No. 19-1A001]

Export Trade Certificate of Review

ACTION: Notice of Application for an amended Export Trade Certificate of Review for National Pecan Shellers Association, Application no. 19-1A001 and Addendum to the Notice of Issuance of an Export Trade Certificate of Review to National Pecan Shellers Association, Application no. 19-00001.

SUMMARY: The Secretary of Commerce, through the Office of Trade and Economic Analysis ("OTEA") of the International Trade Administration, has received an application for an amended Export Trade Certificate of Review (Certificate). This notice summarizes the proposed application and seeks public comments on whether the Certificate should be issued.

FOR FURTHER INFORMATION CONTACT: Joseph Flynn, Director, Office of Trade and Economic Analysis, International Trade Administration, (202) 482-5131 (this is not a toll-free number) or email at etca@trade.gov.

SUPPLEMENTARY INFORMATION: Title III of the Export Trading Company Act of 1982 (15 U.S.C. 4001-21) ("the Act") authorizes the Secretary of Commerce to issue Export Trade Certificates of Review. An Export Trade Certificate of Review protects the holder and the members identified in the Certificate from State and Federal government antitrust actions and from private treble damage antitrust actions for the export conduct specified in the Certificate and carried out in compliance with its terms and conditions. The regulations implementing Title III are found at 15

CFR part 325. OTEA is issuing this notice pursuant to 15 CFR 325.6(a), which requires the Secretary of Commerce to publish a summary of the application in the **Federal Register**, identifying the applicant and each member and summarizing the proposed export conduct.

Request for Public Comments

Interested parties may submit written comments relevant to the determination whether a Certificate should be issued. If the comments include any privileged or confidential business information, it must be clearly marked and a nonconfidential version of the comments (identified as such) should be included. Any comments not marked as privileged or confidential business information will be deemed to be nonconfidential.

Written comments should be sent to ETCA@trade.gov. An original and five (5) copies, plus two (2) copies of the nonconfidential version, should also be submitted no later than 20 days after the date of this notice to: Office of Trade and Economic Analysis, International Trade Administration, U.S. Department of Commerce, Room 21028, Washington, DC 20230.

Information submitted by any person is exempt from disclosure under the Freedom of Information Act (5 U.S.C. 552). However, nonconfidential versions of the comments will be made available to the applicant if necessary for determining whether or not to issue the Certificate. Comments should refer to this application as “Export Trade Certificate of Review, application number 19–1A001.”

A summary of the application and addendum follows.

Summary of the Application

Applicant: National Pecan Shellers Association, 3200 Windy Hill Rd. SE, Suite 600W, Atlanta, GA 30339.

Contact: Russell A. Lemieux, Senior Vice President of The Kellen Company, Telephone: (678) 303–3041.

Application No.: 19–1A001.

Date Deemed Submitted: February 8, 2021.

Summary: National Pecan Shellers Association seeks to amend its Certificate as follows:

1. Add the following entities as new exporting Members of the Certificate within the meaning of section 325.2(l) of the Regulations (15 CFR 325.2(l)):

- a. Easterlin Pecan Co, Montezuma, Georgia
- b. La Nogalera USA Inc., El Paso, Texas

2. Add the following entities as new non-exporting Members of the

Certificate within the meaning of section 325.2(l) of the Regulations (15 CFR 325.2(l)):

- a. Pecan Export Trade Council, Atlanta, Georgia
- b. The Kellen Company, Atlanta, Georgia

3. Change the name of the following Member of the Certificate:

- a. San Saba Pecan, LP changes to Chase Pecan, LP

4. Correct the name of the following Member of the Certificate:

- a. Diamond Food, LLC changes to Diamond Foods, LLC

Summary of the Addendum

On November 12, 2019, the Notice of Issuance of an Export Trade Certificate of Review to National Pecan Shellers Association was published to the **Federal Register** (84 FR 61019). That notice referenced, but did not include, Attachment A for the list of Members protected by the Certificate. Attachment A is provided below.

Attachment A

Members (within the meaning of section 325.2(l) of the Regulations):

- Arnco, Inc. dba Carter Pecan, Panama City Beach, Florida
- Chase Farms, LLC, Artesia, New Mexico
- Diamond Food, LLC, Stockton, California
- Green Valley Company, Sauharita, Arizona
- Hudson Pecan Co., Inc., Ocilla, Georgia
- Lamar Pecan Company, Hawkinsville, Georgia
- Navarro Pecan Company, Corsicana, Texas
- Pecan Grove Farms, Dallas, Texas
- San Saba Pecan, LP, San Saba, Texas
- South Georgia Pecan Company, Valdosta, Georgia

Dated: February 17, 2021.

Joseph Flynn,

Director, Office of Trade and Economic Analysis, International Trade Administration, U.S. Department of Commerce.

[FR Doc. 2021–03492 Filed 2–19–21; 8:45 am]

BILLING CODE 3510–DR–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–131]

Twist Ties From the People’s Republic of China: Final Affirmative Determination of Sales at Less Than Fair Value

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

SUMMARY: The Department of Commerce (Commerce) determines twist ties from the People’s Republic of China (China) are being, or are likely to be, sold in the United States at less than fair value (LTFV). The period of investigation is October 1, 2019, through March 31, 2020.

DATES: Applicable February 22, 2021.

FOR FURTHER INFORMATION CONTACT: Alex Wood, 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) 482–1959.

SUPPLEMENTARY INFORMATION: Background

This final determination is made in accordance with section 735(a) of the Tariff Act of 1930, as amended (the Act). On December 10, 2020, Commerce published in the **Federal Register** its preliminary affirmative determination of sales at LTFV of twist ties from China.¹ On December 10, 2020, Commerce published in the **Federal Register** its preliminary affirmative determination of sales at LTFV in the antidumping duty (AD) investigation of twist ties from China.² We invited interested parties to comment on the *Preliminary Determination*. On January 11, 2021, we received a case brief from Tianjin Kyoei Packaging Supplies Co., Ltd. (Kyoei).³ On January 19, 2021, we received a rebuttal brief from Bedford Industries, Inc. (the petitioner).⁴

¹ See *Twist Ties from the People’s Republic of China: Preliminary Affirmative Determination of Sales at Less Than Fair Value*, 85 FR 79468 (December 10, 2020) (*Preliminary Determination*), and accompanying Preliminary Decision Memorandum (PDM).

² See *Twist Ties from the People’s Republic of China: Preliminary Affirmative Determination of Sales at Less Than Fair Value*, 85 FR 79468 (December 10, 2020) (*Preliminary Determination*), and accompanying Preliminary Decision Memorandum (PDM).

³ See Kyoei’s Letter, “Twist Ties from the People’s Republic of China: Kyoei’s Case Brief,” dated January 11, 2021.

⁴ See Petitioner’s Letter, “Antidumping Duty Investigation of Twist Ties from China; Preliminary Determination—Petitioner’s Rebuttal Case Brief,” dated January 19, 2021.

For a complete description of the events that followed the *Preliminary Determination*, as well as a full discussion of the issues raised by parties for this final determination, see the Issues and Decision Memorandum.⁵ The Issues and Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at <http://access.trade.gov>. In addition, a complete version of the Issues and Decision Memorandum can be accessed directly at <http://enforcement.trade.gov/frn/>. The signed and electronic versions of the Issues and Decision Memorandum are identical in content.

Scope of the Investigation

The products covered by this investigation are twist ties from China. For a complete description of the scope of this investigation, see Appendix I to this notice.

Scope Comments

During the course of this and the concurrent countervailing duty (CVD) investigation, Commerce received scope comments from interested parties. Commerce issued a Preliminary Scope Decision Memorandum to address these comments and invited parties to comment on this memorandum.⁶ No interested party submitted comments on the Preliminary Scope Decision Memorandum. Therefore, for this final determination, the scope of this investigation remains unchanged from that published in the *Preliminary Determination*.

Analysis of Comments Received

All issues raised in the case brief submitted by Kyoei in this investigation are addressed in the Issues and Decision Memorandum. A list of the issues addressed in the Issues and Decision Memorandum is attached to this notice at Appendix II.

China-Wide Entity

For the reasons explained in the *Preliminary Determination*, we are

⁵ See Memorandum, "Issues and Decision Memorandum for the Final Affirmative Determination in the Less-Than-Fair-Value Investigation of Twist Ties from the People's Republic of China," dated concurrently with, and hereby adopted by, this notice (Issues and Decision Memorandum).

⁶ See Memorandum, "Antidumping and Countervailing Duty Investigations of Twist Ties from the People's Republic of China: Scope Comments Decision Memorandum for the Preliminary Determinations," dated November 23, 2020 (Preliminary Scope Decision Memorandum).

continuing to find that the use of adverse facts available (AFA), pursuant to sections 776(a) and (b) of the Act, is appropriate and are applying a rate based entirely on AFA to the China-wide entity.⁷ The China-wide entity includes mandatory respondents Zhenjiang Hongda Commodity Co., Ltd. (Zhenjiang Hongda) and Zhenjiang Zhonglian I/E Co., Ltd. (Zhenjiang Zhonglian).⁸ These companies failed to respond to Commerce's requests for information and withdrew from participation in this investigation. As these non-responsive companies did not demonstrate that they are eligible for separate rate status, Commerce continues to consider them to be part of the China-wide entity. Consequently, we continue to find that the China-wide entity, which includes these non-responsive companies, withheld requested information, significantly impeded this proceeding, and failed to cooperate to the best of its ability.

China-Wide Rate

We continue to find that the use of AFA, pursuant to sections 776(a) and (b) of the Act, is warranted in determining the rate for the China-wide entity.⁹ In selecting the AFA rate for the China-wide entity, Commerce's practice is to select a rate that is sufficiently adverse to ensure that the uncooperative party does not obtain a more favorable result by failing to cooperate than if it had fully cooperated.¹⁰ Specifically, it is Commerce's practice to select, as an AFA rate, the higher of: (a) the highest dumping margin alleged in the petition; or (b) the highest calculated dumping margin of any respondent in the investigation.¹¹ There are no

⁷ See *Preliminary Determination* PDM at 9–13.

⁸ See Memorandum, "Less-Than-Fair-Value Investigation of Twist Ties from the People's Republic of China: Respondent Selection," dated August 17, 2020; and Zhenjiang Hongda and Zhenjiang Zhonglian's Letter, "Twist Ties from the People's Republic of China: Withdrawal of Zhenjiang Hongda and Zhenjiang Zhonglian from the Antidumping Duty Investigation and Counsel's Certification of Compliance with the Terms of the APO," dated August 24, 2020.

⁹ The China-wide entity includes those companies who did not submit a separate rate application, and those companies Commerce determined were ineligible to receive a separate rate.

¹⁰ See, e.g., *Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Purified Carboxymethyl Cellulose from Finland*, 69 FR 77216 (December 27, 2004), unchanged in *Notice of Final Determination of Sales at Less Than Fair Value: Purified Carboxymethyl Cellulose from Finland*, 70 FR 28279 (May 17, 2005).

¹¹ See *Silicon Metal from Australia: Affirmative Final Determination of Sales at Less Than Fair Value and Final Affirmative Determination of Critical Circumstances in Part*, 83 FR 9839 (March

respondents for which we are calculating a separate dumping margin for the final determination. Therefore, the highest (and only) rate on the record of the proceeding is the rate found in the Petition,¹² which is the only information reasonably at Commerce's disposal to determine a rate that is sufficiently adverse to induce cooperation.¹³

Thus, as AFA, Commerce assigned to the China-wide entity the rate of 72.96 percent, which is the sole dumping margin alleged in the Petition.¹⁴

Separate Rates

For the final determination, we continue to find that the evidence placed on the record of this investigation by Kyoei and Rongfa Plastic Products Co., Ltd. (also known as Zhenjiang Rongfa Plastic Co., Ltd) (Rongfa)¹⁵ demonstrates an absence of *de jure* and *de facto* government control. Accordingly, consistent with the *Preliminary Determination*, Commerce continues to assign Kyoei and Rongfa a separate rate, which is the petition rate because it is the only rate available on the record of this proceeding. For a full description of the methodology underlying Commerce's final

8, 2018), and accompanying Issues and Decision Memorandum (IDM) at Comment 1.

¹² See Petitioner's Letter, "Petition for the Imposition of Antidumping and Countervailing Duties on Twist Ties from China," dated June 26, 2020 (the Petition).

¹³ See, e.g., *Sodium Gluconate, Gluconic Acid, and Derivative Products from the People's Republic of China: Preliminary Determination of Sales at Less Than Fair Value*, 83 FR 31949 (July 10, 2018), and accompanying PDM, unchanged in *Sodium Gluconate, Gluconic Acid, and Derivative Products from the People's Republic of China: Final Affirmative Determination of Sales at Less Than Fair Value*, 83 FR 47876 (September 21, 2018), and accompanying IDM; and *Certain Hardwood Plywood Products from the People's Republic of China: Preliminary Affirmative Determination of Sales at Less Than Fair Value, Preliminary Affirmative Determination of Critical Circumstances, in Part*, 82 FR 28629 (June 23, 2017), and accompanying PDM at pages 31–32, revised in *Certain Hardwood Plywood Products from the People's Republic of China: Final Determination of Sales at Less Than Fair Value, and Final Affirmative Determination of Critical Circumstances, in Part*, 82 FR 53460 (November 16, 2017) (calculating a higher rate than the highest Petition rate to apply as the AFA rate in the final determination)).

¹⁴ See Petition; and *Twist Ties from the People's Republic of China: Initiation of Less-Than-Fair-Value Investigation*, 85 FR 45161 (July 27, 2020) (*Initiation Notice*), and accompanying Antidumping Duty Investigation Initiation Checklist.

¹⁵ See Kyoei's Letter, "Twist Ties from the People's Republic of China: Separate Rate Application," dated September 2, 2020; and Rongfa's Letter, "Rongfa Separate Rate Application: Antidumping Duty Investigation of Twist Ties from the People's Republic of China (A–570–131)," dated September 2, 2020.

determination, see the Issues and Decision Memorandum.

Combination Rates

In the *Initiation Notice*, Commerce stated that it would calculate producer/exporter combination rates for the respondents that are eligible for a separate rate in this investigation.¹⁶ Policy Bulletin 05.1 describes this

practice.¹⁷ Accordingly, we have assigned combination rates to certain companies, as provided in the “Final Determination” section below. Because Commerce determined that the mandatory respondents originally selected are not eligible for separate rate status and, thus, should be considered part of the China-wide entity and assigned, as AFA, the petition rate to the

China-wide entity, Commerce did not calculate producer/exporter combination rates for those respondents.

Final Determination

Commerce determines that twist ties from China are being, or are likely to be, sold in the United States at LTFV, and that the following dumping margins exist:

Exporter	Producer	Estimated weighted-average dumping margin (percent)	Cash deposit rate (adjusted for subsidy offsets) (percent)
Rongfa Plastic Products Co., Ltd. (also known as Zhenjiang Rongfa Plastic Co., Ltd).	Rongfa Plastic Products Co., Ltd. (also known as Zhenjiang Rongfa Plastic Co., Ltd).	72.96	62.42
Tianjin Kyoei Packaging Supplies Co., Ltd	Tianjin Kyoei Packaging Supplies Co., Ltd.	72.96	62.42
China-wide Entity ¹⁸ .....	.....	72.96	62.42

Disclosure

Normally, Commerce discloses to interested parties the calculations performed in connection with a final determination within five days of any public announcement or, if there is no public announcement, within five days of the date of publication of the notice of final determination in the **Federal Register**, in accordance with 19 CFR 351.224(b). However, because Commerce applied AFA to the China-wide entity (which includes the companies subject to individual examination) in this investigation, in accordance with section 776 of the Act, and the applied AFA rate, as well as the separate rate, are based solely on the Petition, there are no calculations to disclose.

Continuation of Suspension of Liquidation

In accordance with section 735(c)(1)(B) of the Act, we will direct U.S. Customs and Border Protection (CBP) to continue to suspend liquidation of all entries of twist ties from China, as described in Appendix I of this notice, which were entered, or withdrawn from warehouse, for consumption on or after December 10, 2020, the date of publication in the **Federal Register** of the affirmative *Preliminary Determination*.

Pursuant to section 735(c)(1)(B)(ii) of the Act, upon the publication of this notice, Commerce will instruct CBP to require a cash deposit equal to the

weighted-average amount by which normal value exceeds U.S. price as follows: (1) the cash deposit rate for the exporter/producer combination listed in the table above will be the rate identified for that combination; (2) for all combinations of producers/exporters of merchandise under consideration that have not received their own separate rate, the cash deposit rate will be the cash deposit rate established for the China-wide entity; and (3) for all non-Chinese exporters of the merchandise under consideration which have not received their own separate rate, the cash deposit rate will be the cash deposit rate applicable to the Chinese exporter/producer combination that supplied that non-Chinese exporter.

To determine the cash deposit rate, Commerce normally adjusts the estimated weighted-average dumping margin by the amount of domestic subsidy pass-through and export subsidies determined in a companion CVD proceeding where appropriate. Accordingly, because Commerce made a final affirmative determination for export subsidies in the companion CVD investigation, we offset the calculated estimated weighted-average dumping margins by the appropriate export subsidy rates¹⁹ as indicated in the above chart. These suspension-of-liquidation instructions will remain in effect until further notice.

International Trade Commission Notification

In accordance with section 735(d) of the Act, we will notify the International Trade Commission (ITC) of the final affirmative determination of sales at LTFV. Because Commerce’s final determination is affirmative, in accordance with section 735(b)(2) of the Act, the ITC will make its final determination as to whether the domestic industry in the United States is materially injured, or threatened with material injury, by reason of imports or sales (or the likelihood of sales) for importation of twist ties from China, no later than 45 days after this final determination. If the ITC determines that such injury does not exist, this proceeding will be terminated and all cash deposits posted will be refunded. If the ITC determines that such injury does exist, Commerce will issue an antidumping duty order directing CBP to assess, upon further instruction by Commerce, antidumping duties on all imports of twist ties from China entered, or withdrawn from warehouse, for consumption on or after the effective date of the suspension of liquidation, as discussed above in the “Continuation of Suspension of Liquidation” section.

Notification Regarding Administrative Protective Orders

This notice will serve as a final reminder to the parties subject to administrative protective order (APO) of their responsibility concerning the

¹⁶ See *Initiation Notice*, 85 FR at 45164.

¹⁷ See Enforcement and Compliance’s Policy Bulletin No. 05.1, regarding, “Separate-Rates Practice and Application of Combination Rates in Antidumping Investigations Involving Non-Market Economy Countries,” (April 5, 2005) (Policy Bulletin 05.1), available at <http://enforcement.trade.gov/policy/bull05-1.pdf>.

¹⁸ The China-wide Entity includes Zhenjiang Hongda and Zhenjiang Zhonglian.

¹⁹ The export subsidy rate determined in the final determination of the companion CVD investigation is 10.54 percent. See *Twist Ties from the People’s Republic of China: Final Affirmative Countervailing Duty Determination* (unpublished and dated concurrently with this memorandum); unchanged

from *Twist Ties From the People’s Republic of China: Preliminary Affirmative Countervailing Duty Determination and Alignment of Final Determination With Final Antidumping Duty Determination*, 85 FR 77167 (December 1, 2020), and accompanying PDM at 13–14.

disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305. Timely written notification of return or destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a sanctionable violation.

Notification to Interested Parties

This determination is issued and published pursuant to sections 735(d) and 777(i)(1) of the Act, and 19 CFR 351.210(c).

Dated: February 16, 2021.

Christian Marsh,

Acting Assistant Secretary for Enforcement and Compliance.

Appendix I—Scope of the Investigation

The merchandise covered by this investigation consists of twist ties, which are thin, bendable ties for closing containers, such as bags, bundle items, or identifying objects. A twist tie in most circumstances is comprised of one or more metal wires encased in a covering material, which allows the tie to retain its shape and bind against itself. However, it is possible to make a twist tie with plastic and no metal wires. The metal wire that is generally used in a twist tie is stainless or galvanized steel and typically measures between the gauges of 19 (.0410' diameter) and 31 (.0132') (American Standard Wire Gauge). A twist tie usually has a width between .075' and 1' in the cross-machine direction (width of the tie—measurement perpendicular with the wire); a thickness between .015' and .045' over the wire; and a thickness between .002' and .020' in areas without wire. The scope includes an all-plastic twist tie containing a plastic core as well as a plastic covering (the wing) over the core, just like paper and/or plastic in a metal tie. An all-plastic twist tie (without metal wire) would be of the same measurements as a twist tie containing one or more metal wires. Twist ties are commonly available individually in pre-cut lengths ("singles"), wound in large spools to be cut later by machine or hand, or in perforated sheets of spooled or single twist ties that are later slit by machine or by hand ("gangs").

The covering material of a twist tie may be paper (metallic or plain), or plastic, and can be dyed in a variety of colors with or without printing. A twist tie may have the same covering material on both sides or one side of paper and one side of plastic. When comprised of two sides of paper, the paper material is bound together with an adhesive or plastic. A twist tie may also have a tag or label attached to it or a pre-applied adhesive attached to it.

Excluded from the scope of the investigation are twist ties packaged with bags for sale together where the quantity of twist ties does not exceed twice the number of bags in each package. Also excluded are twist ties that constitute part of the packaging of the imported product, for example, merchandise anchored/secured to a

backing with twist ties in the retail package or a bag of bread that is closed with a twist tie.

Twist ties are imported into the United States under Harmonized Tariff Schedule of the United States (HTSUS) subheadings 8309.90.0000 and 5609.00.3000. Subject merchandise may also enter under HTSUS subheadings 3920.51.5000, 3923.90.0080, 3926.90.9990, 4811.59.6000, 4821.10.2000, 4821.10.4000, 4821.90.2000, 4821.90.4000, and 4823.90.8600. These HTSUS subheadings are provided for reference only. The written description of the scope of the investigation is dispositive.

Appendix II—List of Topics Discussed in the Issues and Decision Memorandum

- I. Summary
- II. Background
- III. Scope of the Investigation
- IV. Discussion of the Issues
 - Comment 1: Determining the Separate Rate
 - Comment 2: Respondent Selection
- V. Recommendation

[FR Doc. 2021-03513 Filed 2-19-21; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[A-570-904]

Certain Activated Carbon From the People's Republic of China: Final Results of Antidumping Duty Administrative Review, Final Determination of No Shipments, and Final Rescission of Administrative Review, in Part; 2018–2019

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

SUMMARY: The Department of Commerce (Commerce) determines that Carbon Activated Tianjin Co., Ltd. (Carbon Activated) and Datong Juqiang Activated Carbon Co., Ltd. (Datong Juqiang) sold certain activated carbon from the People's Republic of China (China) at less than normal value during the period of review (POR) April 1, 2018, through March 31, 2019.

DATES: Applicable February 22, 2021.

FOR FURTHER INFORMATION CONTACT: Jinny Ahn or George Ayache, AD/CVD Operations, Office VIII, Enforcement and Compliance, International Trade Administration, Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482-0339 or (202) 482-2623, respectively.

SUPPLEMENTARY INFORMATION:

Background

Commerce published the *Preliminary Results*¹ on April 30, 2020. For events subsequent to the *Preliminary Results*, see the Issues and Decision Memorandum.² On April 24 and July 21, 2020, Commerce tolled all deadlines in administrative reviews by 50 and an additional 60 days, respectively.³ On November 25, 2020, Commerce extended the deadline of the final results this administrative review by 58 days.⁴ The deadline for the final results of this review is now February 12, 2021.

Scope of the Order⁵

The merchandise subject to the *Order* is certain activated carbon. The products are currently classifiable under the Harmonized Tariff Schedule of the United States (HTSUS) subheading 3802.1000. Although the HTSUS subheading is provided for convenience and customs purposes, the written description of the scope of the *Order* remains dispositive.

Analysis of Comments Received

In the Issues and Decision Memorandum, we addressed all issues raised in the interested parties' case and rebuttal briefs. In Appendix I to this notice, we provided a list of the issues raised by the parties. The Issues and Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at <https://>

¹ See *Certain Activated Carbon from the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review, Intent to Rescind the Review, in Part, and Preliminary Determination of No Shipments; 2018–2019*, 85 FR 23947 (April 30, 2020) (*Preliminary Results*), and accompanying Preliminary Decision Memorandum (PDM).

² See Memorandum, "Certain Activated Carbon from the People's Republic of China: Issues and Decision Memorandum for the Final Results of the Twelfth Antidumping Duty Administrative Review," dated concurrently with, and hereby adopted by, this notice (Issues and Decision Memorandum).

³ See Memorandum, "Tolling of Deadlines for Antidumping and Countervailing Duty Administrative Reviews in Response to Operational Adjustments Due to COVID-19," dated April 24, 2020; see also Memorandum, "Tolling of Deadlines for Antidumping and Countervailing Duty Administrative Reviews," dated July 21, 2020.

⁴ See Memorandum, "Certain Activated Carbon from the People's Republic of China: Extension of Deadline for Final Results of Twelfth Antidumping Duty Administrative Review," dated November 25, 2020.

⁵ See *Notice of Antidumping Duty Order: Certain Activated Carbon from the People's Republic of China*, 72 FR 20988 (April 27, 2007) (*Order*). For a complete description of the scope of the *Order*, see the Issues and Decision Memorandum.

access.trade.gov. In addition, a complete version of the Issues and Decision Memorandum is available to parties at <http://enforcement.trade.gov/frn/index.html>. The signed and electronic versions of the Issues and Decision Memorandum are identical in content.

Changes Since the Preliminary Results

Based on our review of the record and comments received from interested parties regarding our *Preliminary Results*, we made certain revisions to the margin calculations for Carbon Activated and Datong Juqiang,⁶ and consequently, to the rate assigned to the non-examined, separate rate respondents.⁷

Rescission of Administrative Review, in Part

As noted in the *Preliminary Results*, in the *Initiation Notice*,⁸ we included Jacobi Carbons, Inc. among the companies for which a review was requested. The record of this review demonstrates that Jacobi Carbons, Inc. is a U.S. importer of Jacobi.^{9,10} Therefore, for these final results, we are rescinding the review with respect to Jacobi Carbons, Inc.

Final Determination of No Shipments

In the *Preliminary Results*, we preliminarily determined that Ningxia Guanghua Cherishmet Activated Carbon Co., Ltd.; Jilin Bright Future Chemicals Co., Ltd.; Shanxi Dapu International Trade Co., Ltd.; and Tianjin Channel Filters Co., Ltd. had no shipments of subject merchandise to the United States during the POR.¹¹ We received no arguments identifying information that

⁶ See Memoranda, "Antidumping Duty Administrative Review of Certain Activated Carbon from the People's Republic of China: Final Results Calculation Memorandum for Carbon Activated" (Carbon Activated's Final Calculation Memorandum); and "Antidumping Duty Administrative Review of Certain Activated Carbon from the People's Republic of China: Final Results Calculation Memorandum for Datong Juqiang Activated Carbon Co., Ltd." (Datong Juqiang's Final Calculation Memorandum), both dated concurrently with this memorandum; see also Memorandum, "Twelfth Administrative Review of Certain Activated Carbon from the People's Republic of China: Surrogate Values for the Final Results," dated concurrently with this memorandum.

⁷ For additional details on the changes made since the *Preliminary Results*, see the Issues and Decision Memorandum.

⁸ See *Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 84 FR 27587 (June 13, 2019) (*Initiation Notice*).

⁹ Jacobi Carbons AB and its affiliates, Tianjin Jacobi International Trading Co. Ltd. and Jacobi Carbons Industry (Tianjin) Co. Ltd. (collectively, Jacobi).

¹⁰ See Jacobi's Letter, "Jacobi's Separate Rate Certification Supplemental Questionnaire Response," dated March 10, 2020 at Exhibit 1.

¹¹ See *Preliminary Results*, 85 FR at 23947.

contradicts this determination. Therefore, we continue to find that these companies had no shipments of subject merchandise during the POR and will issue appropriate liquidation instructions that are consistent with our "automatic assessment" clarification for these final results.¹²

Separate Rate Respondents

In our *Preliminary Results*, we determined that Carbon Activated, Datong Juqiang, and nine other companies demonstrated their eligibility for a separate rate.¹³ We received no comments or arguments since the issuance of the *Preliminary Results* that provide a basis for reconsideration of these determinations. Therefore, for these final results, we continue to find that the eleven companies listed in the table in the "Final Results of the Review" section of this notice are eligible for a separate rate.

Rate for Non-Examined Separate Rate Respondents

In the *Preliminary Results*,¹⁴ and consistent with Commerce's practice,¹⁵ we assigned the non-examined, separate rate companies a rate equal to the weighted average of the calculated weighted-average dumping margins for the mandatory respondents that are not zero, *de minimis* (i.e., less than 0.5 percent), or based entirely on facts available, weighted by the total U.S. sales quantities from the public version of the submissions from the mandatory respondents.¹⁶ No parties commented on the methodology for calculating this separate rate. For the final results, we continue to apply this methodology, as it is consistent with the intent of, and our use of, section 735(c)(5)(A) of the Act.¹⁷

Final Results of the Review

For the companies subject to this review, which established their eligibility for a separate rate, Commerce determines that the following weighted-average dumping margins exist for the

¹² See *Non-Market Economy Antidumping Proceedings: Assessment of Antidumping Duties*, 76 FR 65694 (October 24, 2011) (*Assessment Practice Refinement*).

¹³ See *Preliminary Results* PDM at 5–8.

¹⁴ *Id.* at 9–10.

¹⁵ See, e.g., *Certain Frozen Warmwater Shrimp from the Socialist Republic of Vietnam: Final Results and Final Partial Rescission of Antidumping Duty Administrative Review*, 76 FR 56158, 56160 (September 12, 2011) (*Vietnam Shrimp*).

¹⁶ See Memorandum, "Certain Activated Carbon from the People's Republic of China: Calculation of Margin for Respondents Not Selected for Individual Examination," dated concurrently with this notice.

¹⁷ See *Vietnam Shrimp*, 76 FR at 56160.

POR from April 1, 2018, through March 31, 2019:

Producers/exporters	Weighted-average dumping margin (USD/kg) ¹⁸
Carbon Activated Tianjin Co., Ltd	1.83
Datong Juqiang Activated Carbon Co., Ltd	0.38
Review-Specific Average Rate Applicable to the Following Companies¹⁹	
Beijing Pacific Activated Carbon Products Co., Ltd	0.65
Jacobi Carbons AB ²⁰	0.65
Ningxia Huahui Activated Carbon Co., Ltd	0.65
Ningxia Mineral & Chemical Limited	0.65
Shanxi Sincere Industrial Co., Ltd	0.65
Shanxi Tianxi Purification Filter Co., Ltd	0.65
Datong Municipal Yunguang Activated Carbon Co., Ltd	0.65
Shanxi Industry Technology Trading Co., Ltd	0.65
Tancarb Activated Carbon Co., Ltd	0.65

In the *Preliminary Results*, Commerce found that 63 companies for which a review was requested²¹ did not establish eligibility for a separate rate because they did not file a separate rate application or a separate rate certification, as appropriate.²² No interested party commented on Commerce's preliminary determination with respect to these 63 companies, identified at Appendix II to this notice. Therefore, for these final results we determine these companies to be part of the China-wide entity. Because no party requested a review of the China-wide entity, and Commerce no longer considers the China-wide entity as an

¹⁸ In the second administrative review of the *Order*, Commerce determined that it would calculate per-unit weighted-average dumping margins and assessment rates for all future reviews. See *Certain Activated Carbon from the People's Republic of China: Final Results and Partial Rescission of Second Antidumping Duty Administrative Review*, 75 FR 70208, 70211 (November 17, 2010) (*AR2 Carbon*), and accompanying Issues and Decision Memorandum (IDM) at Comment 3.

¹⁹ This is the rate applicable to the non-examined separate rate respondents, as discussed above.

²⁰ In the third administrative review of the *Order*, Commerce found that Jacobi Carbons AB, Tianjin Jacobi International Trading Co. Ltd., and Jacobi Carbons Industry (Tianjin) should be treated as a single entity, and because there were no facts presented on the record of this review which would call into question our prior finding, we continue to treat these companies as part of a single entity for this administrative review, pursuant to sections 771(33)(E), (F), and (G) of the Act, and 19 CFR 351.401(f). See *Certain Activated Carbon from the People's Republic of China: Final Results and Partial Rescission of Third Antidumping Duty Administrative Review*, 76 FR 67142, 67145, n.25 (October 31, 2011); see also *Preliminary Results* PDM.

²¹ See Appendix II of this notice for a full list of the 63 companies.

²² See *Preliminary Results* PDM at 8.

exporter conditionally subject to administrative reviews,²³ we did not conduct a review of the China-wide entity. Thus, the weighted-average dumping margin for the China-wide entity (*i.e.*, 2.42 USD/kg)²⁴ is not subject to change as a result of this review.

Assessment Rates

Pursuant to section 751(a)(2)(C) of the Act and 19 CFR 351.212(b), Commerce has determined, and U.S. Customs and Border Protection (CBP) shall assess, antidumping duties on all appropriate entries covered by this review. Consistent with its recent notice,²⁵ 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).

For each individually-examined respondent in this review which has a final weighted-average dumping margin that is not zero or *de minimis* (*i.e.*, less than 0.5 percent), we will calculate importer- (or customer-) specific per-unit duty assessment rates based on the ratio of the total amount of dumping calculated for the examined sales to that importer (or customer) to the total quantity associated with those sales, in accordance with 19 CFR 351.212(b)(1).²⁶ We will also calculate (estimated) *ad valorem* importer-specific assessment rates with which to determine whether the per-unit assessment rates are *de minimis*.²⁷ Where either the respondent's weighted-average dumping margin is zero or *de minimis*, or an importer- (or customer-) specific assessment rate is zero or *de minimis*,

we will instruct CBP to liquidate the appropriate entries without regard to antidumping duties.²⁸

For the respondents which were not selected for individual examination in this administrative review and which qualified for a separate rate, the assessment rate will be equal to the rate assigned to them for the final results (*i.e.*, 0.65 USD/kg). For the companies identified as part of the China-wide entity, we will instruct CBP to apply a per-unit assessment rate of 2.42 USD/kg to all entries of subject merchandise during the POR which were produced or exported by those companies. Pursuant to a refinement in our non-market economy practice, for sales that were not reported in the U.S. sales data submitted by companies individually examined during this review, we will instruct CBP to liquidate entries associated with those sales at the rate for the China-wide entity. Furthermore, where we found that an exporter under review had no shipments of the subject merchandise, any suspended entries that entered under that exporter's case number (*i.e.*, at that exporter's cash deposit rate) will be liquidated at the rate for the China-wide entity.²⁹

Cash Deposit Requirements

The following per-unit cash deposit requirements will be effective upon publication of the final results of this administrative review for all shipments of the subject merchandise from China entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided by section 751(a)(2)(C) of the Act: (1) For Carbon Activated, Datong Juqiang, and the non-examined separate rate respondents, the cash deposit rate will be equal to their weighted-average dumping margins established in the final results of this review; (2) for previously investigated or reviewed Chinese and non-Chinese exporters not listed above that have separate rates, the cash deposit rate will continue to be the exporter-specific rate published for the most recently completed segment of this proceeding in which they were reviewed; (3) for all Chinese exporters of subject merchandise that have not been found to be entitled to a separate rate, the cash deposit rate will be equal to the weighted-average dumping margin for the China-wide entity (*i.e.*, 2.42 USD/kg); and (4) for all non-Chinese exporters of subject merchandise which have not received their own separate rate, the cash deposit rate will be the

rate applicable to the Chinese exporters that supplied those non-Chinese exporters. These per-unit cash deposit requirements, when imposed, shall remain in effect until further notice.

Disclosure

We intend to disclose the calculations performed to parties in this proceeding within five days of the date of publication of this notice in accordance with 19 CFR 351.224(b).

Notification to Importers Regarding the Reimbursement of Duties

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

Notification Regarding Administrative Protective Order (APO)

This notice also serves as a reminder to parties subject to APO of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3), which continues to govern business proprietary information in this segment of the proceeding. Timely written notification of the return or destruction of APO materials, or conversion to judicial protective order, is hereby requested. Failure to comply with the regulations and terms of an APO is a violation subject to sanction.

Notification to Interested Parties

We are issuing and publishing these final results of administrative review and notice in accordance with sections 751(a)(1) and 777(i) of the Act.

Dated: February 12, 2021.

Christian Marsh,
Acting Assistant Secretary for Enforcement and Compliance.

Appendix I

Issues and Decision Memorandum

- I. Summary
- II. Background
- III. Scope of the Order
- IV. Changes Since the *Preliminary Results*
- V. Discussion of the Issues
 - Comment 1: Adjustment of Datong Juqiang's Reported Per-Unit Factor Consumption of Bituminous Coal and Carbonized Material
 - Comment 2: Bituminous Coal Surrogate Value

²³ See *Antidumping Proceedings: Announcement of Change in Department Practice for Respondent Selection in Antidumping Duty Proceedings and Conditional Review of the Nonmarket Economy Entity in NME Antidumping Duty Proceedings*, 78 FR 65963, 65969–70 (November 4, 2013).

²⁴ See, e.g., *Certain Activated Carbon from the People's Republic of China: Final Results of Antidumping Duty Administrative Review; 2012–2013*, 79 FR 70163, 70165 (November 25, 2014).

²⁵ 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).

²⁶ See *AR2 Carbon IDM* at Comment 3.

²⁷ For calculated (estimated) *ad valorem* importer-specific assessment rates used in determining whether the per-unit assessment rate is *de minimis*, see Carbon Activated's Final Calculation Memorandum and Datong Juqiang's Final Calculation Memorandum and attached Margin Calculation Program Logs and Outputs.

²⁸ See 19 CFR 351.106(c)(2).

²⁹ For a full discussion of this practice, see *Assessment Practice Refinement*, 76 FR at 65694.

Comment 3: Coal Tar Surrogate Value
 Comment 4: Anthracite Coal Surrogate Value
 Comment 5: Selection of Surrogate Financial Statements
 Comment 6: Ocean Freight Surrogate Value
 Comment 7: Hydrochloric Acid Surrogate Value
 Comment 8: Carbonized Material Surrogate Value
 Comment 9: Liquid Caustic Soda Surrogate Value
 Comment 10: Steam Surrogate Value
 Comment 11: Whether to Use the Most Comparable CONNUM When Calculating the Factors of Production for Carbon Activated's Uncooperative and Excluded Suppliers

VI. Recommendation

Appendix II

Companies Not Eligible for a Separate Rate and Treated as Part of the China-Wide Entity

1. AM Global Shipping Lines Co., Ltd.
2. Apex Maritime (Tianjin) Co., Ltd.
3. Beijing Kang Jie Kong International Cargo Agent Co Ltd.
4. Bengbu Modern Environmental Co., Ltd.
5. Brilliant Logistics Group Inc.
6. China Combi Works Oy Ltd
7. China International Freight Co., Ltd.
8. Cohesion Freight (HK) Ltd.
9. Datong Municipal Yunguang
10. De Well Container Shipping Corp.
11. Derun Charcoal Carbon Co., Ltd.
12. Endurance Cargo Management Co., Ltd.
13. Envitek (China) Ltd.
14. Excel Shipping Co., Ltd.
15. Fujian Xinsen Carbon Co., Ltd.
16. Fuzhou Yihuan Carbon Co., Ltd.
17. Fuzhou Yuemengfeng Trade Co., Ltd.
18. Gongyi City Bei Shan Kou Water Purification Materials Factory
19. Guangdong Hanyan Activated Carbon Manufacturing Co., Ltd.
20. Guangzhou Four E'S Scientific Co., Ltd.
21. Hangzhou Hengxing Activated Carbon
22. Henan Dailygreen Trading Co., Ltd.
23. Honour Lane Shipping Ltd.
24. Ingevity Corp.
25. Ingevity Performance Materials
26. Jiangsu Kejing Carbon Fiber Co., Ltd.
27. Jiangxi Yuanli Huaiyushan Active Carbon
28. Jilin Bright Future Chemicals Co.
29. King Freight International Corp.
30. M Chemical Company, Inc.
31. Meadwestvaco Trading (Shanghai)
32. Muk Chi Trade Co., Ltd.
33. Nanping Yuanli Active Carbon Co.
34. Pacific Star Express (China) Company Ltd.
35. Panalpina World Transport (Prc) Ltd.
36. Pingdingshan Green Forest Activated Carbon Factory
37. Pingdingshan Lvlin Activated Carbon Co., Ltd.
38. Pudong Prime International Logistics
39. Safround Logistics Co.
40. Seatrade International Transportation
41. Shanghai Caleb Industrial Co. Ltd.
42. Shanghai Express Global International
43. Shanghai Line Feng Int'l Transportation
44. Shanghai Pudong International Transportation
45. Shanghai Sunson Activated Carbon
46. Shanghai Xinjinhu Activated Carbon

47. Shanxi DMD Corp.
48. Shanxi Industry Technology Trading (ITT)
49. Shanxi Tianxi Purification Filter
50. Shenzhen Calux Purification
51. Shijiazhuang Tangju Trading Co.
52. Sinoacarbon International Trading Co., Ltd.
53. T.H.I. Group (Shanghai) Ltd.
54. Tancarb Activated Carbon Co.
55. The Ultimate Solid Logistics Ltd
56. Tianjin Maijin Industries Co., Ltd
57. Translink Shipping Inc.
58. Trans-Power International Logistics Co., Ltd.
59. Triple Eagle Container Line
60. U.S. United Logistics (Ningbo) Inc.
61. Yusen Logistics Co., Ltd.
62. Zhejiang Topc Chemical Industry
63. Zhengzhou Zhulin Activated Carbon

[FR Doc. 2021-03512 Filed 2-19-21; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[C-570-132]

Twist Ties From the People's Republic of China: Final Affirmative Countervailing Duty Determination

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

SUMMARY: The Department of Commerce (Commerce) determines that countervailable subsidies are being provided to producers and/or exporters of twist ties from the People's Republic of China (China).

DATES: Applicable February 22, 2021.

FOR FURTHER INFORMATION CONTACT: Ajay Menon or Adam Simons, 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) 482-1993 or (202) 482-6172, respectively.

SUPPLEMENTARY INFORMATION:

Background

The petitioner in this investigation is Bedford Industries, Inc. In addition to the Government of China (GOC), the mandatory respondents in this investigation are Zhenjiang Hongda Commodity Co. Ltd. (Zhenjiang Hongda) and Zhenjiang Zhonglian I/E Co., Ltd. (Zhenjiang Zhonglian).

On December 1, 2020, Commerce published the *Preliminary Determination* and aligned this final countervailing duty (CVD) determination with the final antidumping duty (AD) determination, in accordance with section 705(a)(1) of

the Tariff Act of 1930, as amended (the Act), and 19 CFR 351.210(b)(4)(i).¹ A summary of the events that occurred since Commerce published the *Preliminary Determination*, as well as a full discussion of the issues raised by parties for this final determination, are discussed in the Issues and Decision Memorandum.² The Issues and Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at <http://access.trade.gov>. In addition, a complete version of the Issues and Decision Memorandum can be accessed directly at <http://enforcement.trade.gov/frn/index.html>. The signed and electronic versions of the Issues and Decision Memorandum are identical in content.

Period of Investigation

The period of investigation is January 1, 2019, through December 31, 2019.

Scope of the Investigation

The product covered by this investigation is twist ties from China. For a complete description of the scope of this investigation, see Appendix I.

Scope Comments

During the course of this and the concurrent AD investigation, Commerce received scope comments from interested parties. Commerce issued a Preliminary Scope Decision Memorandum to address these comments and invited parties to comment on this memorandum.³ No interested party submitted comments on the Preliminary Scope Decision Memorandum. Therefore, for this final determination, the scope of this investigation remains unchanged from that published in the *Preliminary Determination*.

¹ See *Twist Ties From the People's Republic of China: Preliminary Affirmative Countervailing Duty Determination and Alignment of Final Determination With Final Antidumping Duty Determination*, 85 FR 77167 (December 1, 2020) (*Preliminary Determination*), and accompanying Preliminary Decision Memorandum.

² See Memorandum, "Issues and Decision Memorandum for the Final Determination in the Countervailing Duty Investigation of Twist Ties from the People's Republic of China," dated concurrently with, and hereby adopted by, this notice (Issues and Decision Memorandum).

³ See Memorandum, "Antidumping and Countervailing Duty Investigations of Twist Ties from the People's Republic of China: Scope Comments Decision Memorandum for the Preliminary Determinations," dated November 23, 2020 (Preliminary Scope Decision Memorandum).

Analysis of Subsidy Programs and Comments Received

The subsidy programs under investigation and the issues raised in the case and rebuttal briefs by parties in this investigation are discussed in the Issues and Decision Memorandum. A list of the issues that parties raised is attached to this notice as Appendix II.

Methodology

Commerce conducted this investigation in accordance with section 701 the Act. For each of the subsidy programs found countervailable, Commerce determines that there is a subsidy, *i.e.*, a financial contribution by an “authority” that gives rise to a benefit to the recipient, and that the subsidy is specific.⁴ For a full description of the methodology underlying our final determination, *see* the Issues and Decision Memorandum.

In making this final determination, Commerce is relying on facts otherwise available, including adverse facts available (AFA), pursuant to sections 776(a) and (b) of the Act, due to respondents’ lack of participation in this investigation. For a full discussion of our application of AFA, *see* the *Preliminary Determination*.⁵

Changes Since the Preliminary Determination

Based on our review and analysis of the comments received from parties, we made certain changes to Zhenjiang Hongda and Zhenjiang Zhonglian’s subsidy rate calculations. For a discussion of these changes, *see* the Issues and Decision Memorandum.

All-Others Rate

As discussed in the *Preliminary Determination*, Commerce based the selection of the all-others rate on the countervailable subsidy rate established for the mandatory respondents in accordance with section 705(c)(5)(A)(ii) of the Act.⁶ We made no changes to the selection of this rate for this final determination.

Final Determination

Commerce determines that the following estimated countervailable subsidy rates exist:

Company	Subsidy rate (percent)
Dongguan Guanqiao Industrial Co., Ltd	111.96
Foshan Shunde Ronggui Yingli Industrial Co., Ltd	111.96
Yiwu Kurui Handicraft Co. Ltd	111.96
Zhenjiang Hongda Commodity Co. Ltd	111.96
Zhenjiang Zhonglian VE Co., Ltd	111.96
All Others	111.96

Disclosure

Normally, Commerce discloses its calculations performed in connection with the final determination to interested parties within five days of its public announcement, or if there is no public announcement, within five days of the date of publication of this notice in accordance with 19 CFR 351.224(b). However, because Commerce applied total AFA rates in the calculation of the benefit for the non-responsive companies, and the applied AFA rates are based on rates calculated in prior proceedings, there are no calculations to disclose.

Continuation of Suspension of Liquidation

As a result of our *Preliminary Determination* and pursuant to sections 703(d)(1)(B) and (d)(2) of the Act, Commerce instructed U.S. Customs and Border Protection (CBP) to suspend liquidation of entries of subject merchandise, as described in the scope of the investigation section, entered, or withdrawn from warehouse, for consumption on or after December 1, 2020, the date of publication of the *Preliminary Determination* in the *Federal Register*.

If the U.S. International Trade Commission (ITC) issues a final affirmative injury determination, we will issue a CVD order and require a cash deposit of estimated countervailing duties for such entries of subject merchandise in the amounts indicated above. If the ITC determines that material injury, or threat of material injury, does not exist, this proceeding will be terminated and all estimated duties deposited or securities posted as a result of the suspension of liquidation will be refunded or canceled.

ITC Notification

In accordance with section 705(d) of the Act, we will notify the ITC of our determination. Because the final determination in this proceeding is affirmative, in accordance with section 705(b) of the Act, the ITC will make its final determination as to whether the

domestic industry in the United States is materially injured, or threatened with material injury, by reason of imports of twist ties from China no later than 45 days after our final determination. If the ITC determines that material injury or threat of material injury does not exist, the proceeding will be terminated and all cash deposits will be refunded. If the ITC determines that such injury does exist, Commerce will issue a CVD order directing CBP to assess, upon further instruction by Commerce, countervailing duties on all imports of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the effective date of the suspension of liquidation, as discussed above in the “Continuation of Suspension of Liquidation” section.

Notification Regarding Administrative Protective Order (APO)

In the event that the ITC issues a final negative injury determination, this notice will serve as the only reminder to parties subject to the APO of their responsibility concerning the destruction 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 violation which is subject to sanction.

Notification to Interested Parties

This determination is issued and published pursuant to sections 705(d) and 777(i) of the Act, and 19 CFR 351.210(c).

Dated: February 16, 2021.

Christian Marsh,

Acting Assistant Secretary for Enforcement and Compliance.

Appendix I—Scope of the Investigation

The merchandise covered by this investigation consists of twist ties, which are thin, bendable ties for closing containers, such as bags, bundle items, or identifying objects. A twist tie in most circumstances is comprised of one or more metal wires encased in a covering material, which allows the tie to retain its shape and bind against itself. However, it is possible to make a twist tie with plastic and no metal wires. The metal wire that is generally used in a twist tie is stainless or galvanized steel and typically measures between the gauges of 19 (.0410’ diameter) and 31 (.0132’) (American Standard Wire Gauge). A twist tie usually has a width between .075’ and 1’ in the cross-machine direction (width of the tie— measurement perpendicular with the wire); a thickness between .015’ and .045’ over the wire; and a thickness between .002’ and .020’

⁴ See sections 771(5)(B) and (D) of the Act regarding financial contribution; section 771(5)(E) of the Act regarding benefit; and section 771(5A) of the Act regarding specificity.

⁵ See Preliminary Decision Memorandum at “Use of Facts Otherwise Available and Adverse Inferences.”

⁶ See *Preliminary Determination*.

in areas without wire. The scope includes an all-plastic twist tie containing a plastic core as well as a plastic covering (the wing) over the core, just like paper and/or plastic in a metal tie. An all-plastic twist tie (without metal wire) would be of the same measurements as a twist tie containing one or more metal wires. Twist ties are commonly available individually in pre-cut lengths ("singles"), wound in large spools to be cut later by machine or hand, or in perforated sheets of spooled or single twist ties that are later slit by machine or by hand ("gangs").

The covering material of a twist tie may be paper (metallic or plain), or plastic, and can be dyed in a variety of colors with or without printing. A twist tie may have the same covering material on both sides or one side of paper and one side of plastic. When comprised of two sides of paper, the paper material is bound together with an adhesive or plastic. A twist tie may also have a tag or label attached to it or a pre-applied adhesive attached to it.

Excluded from the scope of the investigation are twist ties packaged with bags for sale together where the quantity of twist ties does not exceed twice the number of bags in each package. Also excluded are twist ties that constitute part of the packaging of the imported product, for example, merchandise anchored/secured to a backing with twist ties in the retail package or a bag of bread that is closed with a twist tie.

Twist ties are imported into the United States under Harmonized Tariff Schedule of the United States (HTSUS) subheadings 8309.90.0000 and 5609.00.3000. Subject merchandise may also enter under HTSUS subheadings 3920.51.5000, 3923.90.0080, 3926.90.9990, 4811.59.6000, 4821.10.2000, 4821.10.4000, 4821.90.2000, 4821.90.4000, and 4823.90.8600. These HTSUS subheadings are provided for reference only. The written description of the scope of the investigation is dispositive.

Appendix II—List of Topics Discussed in the Issues and Decision Memorandum

- I. Summary
- II. Background
- III. Use of Facts Otherwise Available and Adverse Inferences
- IV. Analysis of Comments
 - Comment 1: Countervailability of Currency Exchanges Involving the Allegedly Undervalued Renminbi (RMB)
 - Comment 2: Export Buyer's Credit Program
 - Comment 3: Electricity for Less than Adequate Remuneration (LTAR)
 - Comment 4: The Subsidy Rate Assigned to Tianjin Kyoiei Packaging Supplies Co., Ltd. (Kyoiei)
- V. Recommendation

[FR Doc. 2021-03514 Filed 2-19-21; 8:45 am]

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DEPARTMENT OF COMMERCE

Minority Business Development Agency

Agency Information Collection Activities; Submission to the Office of Management and Budget (OMB) for Review and Approval; Comment Request; National Minority Business Awards

AGENCY: Minority Business Development Agency, Commerce.

ACTION: Notice of Information Collection, Regular submission.

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. The National Minority Business Awards Program is a key element of Minority Enterprise Development Week and celebrates the outstanding achievements of minority entrepreneurs.

DATES: To ensure consideration, comments regarding this proposed information collection must be received on or before April 23, 2021.

ADDRESSES: Interested persons are invited to submit written comments to Minority Business Development Agency PRA Officer at PRAComments@doc.gov. Please reference OMB Control Number 0640-0025 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 Antavia Grimsley, Management Analyst, Minority Business Development Agency, Room 5063, 1401 Constitution Avenue NW, Washington, DC 20230; telephone (202)482-7458, or AGrimsley1@mbda.gov.

SUPPLEMENTARY INFORMATION:

I. Abstract

The Minority Business Development Agency (MBDA) is the only federal agency created exclusively to foster the growth and global competitiveness of minority-owned businesses in the United States. For this purpose, a minority owned business must be owned or controlled by one of the

following persons or group of persons: African American, American Indian, Alaska Native, Asian, Hispanic, Native Hawaiian, Pacific Islander, Asian Indian, and Hasidic Jew. MBDA provides management and technical assistance to large, medium, and small minority business enterprises through a network of business centers throughout the United States.

Since 1983, every president has issued a Presidential Proclamation designating one week as National Minority Enterprise Development (MED) Week. MBDA recognizes the role that minority entrepreneurs play in building the Nation's economy by honoring businesses that are making a significant contribution through the creation of jobs, products and services, in addition to supporting their local communities. The National Minority Business Awards Program is a key element of MED Week and celebrates the outstanding achievements of minority entrepreneurs. MBDA may make awards in the following categories: Minority Construction Firm of the Year, Minority Export Firm of the Year, Minority Manufacturing Firm of the Year, Minority E-Commerce Firm of the Year, Minority Emerging Technologies and Industries Firm of the Year, Minority Health Products and Services Firm of the Year, Minority Marketing and Communications Firm of the Year, Firm of the Year, Minority Veteran-Owned Firm of the Year, and Robert J. Brown Minority Business Enterprise of the Year. In addition, MBDA may recognize trailblazers and champions through the Access to Capital Award, Advocate of the Year Award, Distinguished Supplier Diversity Award, Abe Venable Legacy Award for Lifetime Achievement, and Ronald H. Brown Leadership Awards. All awards will be presented at a ceremony during National MED Week. Nominations for these awards are open to the public. MBDA must collect two types of information: (a) Information identifying the nominee and nominator, and (b) information explaining why the nominee should be given the award. The information will be used to determine those applicants best meeting the preannounced evaluation criterion. Use of a nomination form standardizes and limits the information collected as part of the nomination process. This makes the competition fair and eases the burden on applicants and reviewers. Participation in the National Minority Business Awards competition is voluntary and the awards are strictly honorary.

II. Method of Collection

The MBDA uses several forms of data collection: by mail, hand delivery, fax, or electronic delivery when the MBDA staff presents questions to the MBDA Business Center clients.

III. Data

OMB Control Number: 0640–0025.

Form Number(s): Not applicable.

Type of Review: Regular submission.

Affected Public: Businesses or other for-profit organizations, not-for-profit institutions, State, Local, or Tribal government, and Federal government.

Estimated Number of Respondents: 250.

Estimated Time per Response: 1 hour.

Estimated Total Annual Burden Hours: 250.

Estimated Total Annual Cost to Public: \$0

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. 2021–03433 Filed 2–19–21; 8:45 am]

BILLING CODE 3510–21–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XA880]

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; request for comments on proposed incidental harassment authorization renewal.

SUMMARY: NMFS received a request from the U.S. Navy (Navy) for the renewal of their currently active incidental harassment authorization (IHA) to take marine mammals incidental to Portsmouth Naval Shipyard Dry Dock 1 modification and expansion in Kittery, Maine. These activities are nearly identical to those covered in the current authorization. The project has been delayed and a small portion of the activities covered in the initial IHA have not been completed. The Navy also proposes to drive an additional number of piles for which the installation methods are identical and pile types are nearly identical to those covered in the initial IHA. Pursuant to the Marine Mammal Protection Act, 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 March 6, 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.Esch@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:

Carter Esch, Office of Protected Resources, NMFS, (301) 427–8421. 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 issued 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 Description of the Specified Activities and Anticipated Impacts section of this notice is planned or (2) the activities as described in the Description of the Specified Activities and Anticipated Impacts section of this notice would not be completed by the time the IHA expires and a renewal would allow for completion of the activities beyond that described in the Dates and Duration section of the notice of proposed IHA for the initial IHA, provided all of the following conditions are met:

- A request for renewal is received no later than 60 days prior to the needed IHA renewal effective date (recognizing that the r IHA renewal expiration date cannot extend beyond one year from expiration of the initial IHA);
- The request for renewal must include the following:

(1) An explanation that the activities to be conducted under the requested Renewal IHA are identical to the activities analyzed under the initial IHA, are a subset of the activities, or include changes so minor (*e.g.*, reduction in pile size) that the changes do not affect the previous analyses, mitigation and monitoring requirements, or take estimates (with the exception of reducing the type or amount of take); and

(2) A preliminary monitoring report showing the results of the required monitoring to date and an explanation showing that the monitoring results do not indicate impacts of a scale or nature not previously analyzed or authorized.

Upon review of the request for renewal, the status of the affected species or stocks, and any other pertinent information, NMFS determines that there are no more than

minor changes in the activities, the mitigation and monitoring measures will remain the same and appropriate, and the findings in the initial IHA remain valid.

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. 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 (*i.e.*, the issuance of an incidental harassment authorization) with respect to potential impacts on the human environment.

This action is consistent with categories of activities identified in Categorical Exclusion B4 (IHAs with no anticipated serious injury or mortality) of the Companion Manual for NOAA Administrative Order 216–6A, which do not individually or cumulatively have the potential for significant impacts on the quality of the human environment and for which we have not identified any extraordinary circumstances that would preclude this categorical exclusion. Accordingly, NMFS has 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 November 1, 2018, NMFS received a request from the Navy for authorization of the taking, by Level B harassment and Level A harassment, of marine mammals incidental to the

modification and expansion of Dry Dock 1 at Portsmouth Naval Shipyard in Kittery, Maine. The specified activity is expected to result in the take of five species of marine mammals (harbor seals (*Phoca vitulina*), gray seals (*Halichoerus grypsus*), harp seals (*Pagophilus groenlandicus*), hooded seals (*Cystophora cristata*), harbor porpoises (*Phocoena phocoena*)). A final version of the application, which we deemed adequate and complete, was submitted on March 11, 2019. We published a notice of a proposed IHA (referred to hereafter as the proposed initial IHA) and request for comments on April 4, 2019 (84 FR 13252). After the public comment period, NMFS issued the final IHA on May 16, 2019, effective October 1, 2019, through September 30, 2020 (84 FR 24476), hereafter referred to as the 2019 IHA. On September 30, 2019, the Navy informed NMFS that the project was delayed. None of the work identified in the IHA had occurred and no take of any marine mammals had occurred since the issuance of the IHA. The Navy requested that NMFS modify the effective dates in order to conduct the construction work that was previously analyzed and authorized. On December 3, 2019, NMFS re-issued, with new effective dates, an IHA to the Navy to take marine mammals incidental to modification and expansion of at the Portsmouth Naval Shipyard Dry Dock 1 in Kittery, Maine (84 FR 67261; December 9, 2019), effective from March 1, 2020 through February 28, 2021 (hereafter referred to as the initial IHA).

On January 21, 2021, NMFS received an application for the renewal of the initial IHA. As described in the request for the renewal IHA, the activities for which incidental take is requested include a small subset of the activities that are covered by the initial authorization but will not be completed prior to its expiration, as well as a new addition of activity that is nearly identical to that covered in the initial authorization. As required, the applicant also provided a preliminary monitoring report (available at: <https://www.fisheries.noaa.gov/national/marine-mammal-protection/incidental-take-authorizations-construction-activities>) 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

The Navy's planned activities include installation of temporary dolphin piles for construction of the caisson seat float-in, completion of the caisson seat foundation, and construction of a temporary blast wall. The Navy planned to install the guide dolphin piles in February 2021, prior to the expiration of the initial IHA; however, due to unforeseen delays, these piles are now scheduled to be installed in March 2021. Additionally, the installation of sheet piles to complete the caisson seat foundation is scheduled to conclude on February 25, 2021, although if there are any unanticipated weather or equipment delays, this activity might not be completed prior to the expiration of the initial IHA. Finally, construction of a temporary blast wall was not specifically analyzed in the 2019 IHA, but will involve the installation of a comparatively small number (in relation to the initial IHA) of similar or smaller size steel sheet and pipe piles using installation methods identical to those described in the 2019 IHA. The location and nature of the activities, including the types of equipment planned for use, are nearly identical to those described in the initial IHA.

Similarly, the anticipated impacts are identical in nature (though significantly lower in number) to those described in the initial IHA. Also, NMFS anticipates the take of only two of the five species of marine mammals described in the 2019 IHA (harbor seals and gray seals) by Level A harassment and Level B harassment incidental to underwater noise resulting from construction associated with the proposed activities.

The following documents are referenced in this notice and include important supporting information:

- Reissued 2019 IHA (84 FR 67261; December 9, 2019);
- 2019 final IHA (84 FR 24476; May 28, 2019);
- 2019 proposed IHA (843 FR 13252; April 4, 2019);
- 2019 IHA application, references cited, and previous public comments received (available at <https://www.fisheries.noaa.gov/national/marine-mammal-protection/incidental-take-authorizations-construction-activities>).

Detailed Description of the Activity

The Navy proposes to modify and expand Dry Dock 1 at Portsmouth Naval Shipyard because dimensional limitations currently impede operations and maintenance. To minimize impacts on dry dock operations during

construction, the overall project is being constructed in phases. The first element, construction of a superfloat basin, is scheduled to occur in six phases; activities associated with first two phases, and one activity from Phase 3 (installation of the caisson seat float-in) were described and analyzed in the 2019 IHA. Phases 1 and 2, planned to be completed under the initial IHA, included site reconnaissance, field measurements, contractor submittals and general mobilization activities (Phase 1), and construction of the southern closure, construction of the caisson seat float-in and foundation, Berth 1 and 11 improvements, Dry Dock 1 utility improvements, and dredging (Phase 2). Schedule delays precluded installation of the caisson seat float-in; therefore, the Navy included this activity in the renewal request.

To construct the caisson seat float-in, the Navy would use vibratory pile driving to install six temporary dolphins, comprised of twelve, 30-inch (in) diameter steel pipe piles (a reduction in size from the 36-in diameter steel pipe piles analyzed for this activity in the 2019 IHA).

To construct the remaining portion of the caisson seat foundation, the renewal request includes the installation of twenty 27-in sheet piles using a combination of vibratory and impact pile driving, as described in the initial IHA. The 2019 IHA analyzed the potential for Level A harassment and Level B harassment from installation of twenty 24-in sheet piles using the identical installation methods; the size of the sheet pile included in the renewal request is slightly larger and the source levels used to model distances to the Level A harassment and Level B harassment isopleths are accordingly slightly higher (see *Estimated Take* section, Table 1). However, although the sheet pile size is slightly larger, the number of 27-in sheet piles (20) associated with installation of the caisson seat foundation included in the renewal request is identical in number to that planned for the caisson seat foundation and also a small subset of the total number (320) of 24 in sheet piles included in the initial IHA.

Finally, the Navy proposes to construct a temporary blast wall, comprised of 15, 30-in steel pipe piles and 70 25-in sheet piles installed using vibratory pile driving only. This wall would be located within the project area, across the opening of the existing Dry Dock 1 between Berth 1 and Berth 11A and opposite the caisson seat, described in the proposed initial IHA (84 FR 13252; April 4, 2019). For comparison, the initial IHA included

vibratory installation of 48, 36-in steel pipe piles and 320 24-in sheet piles. Therefore, the renewal request includes nearly identical pile sizes (steel pipe and sheet) and identical installation method to those described and included in the initial IHA.

A detailed description of the construction activities for which take is proposed here may be found in the **Federal Register** notice of proposed IHA for the 2019 authorization (84 FR 13252; April 4, 2019). As stated above, the location and nature of the pile driving operations, including the type and size of piles and the methods of pile driving, are identical or nearly identical to those analyzed in the 2019 IHA. The proposed IHA renewal would be effective from the date of issuance to February 27, 2022 (*i.e.*, one year after the expiration of the initial IHA), although all construction proposed in the renewal request would be completed between March 1, 2021 and March 31, 2021.

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 **Federal Register** notice for the proposed IHA for the 2019 authorization (84 FR 13252; April 4, 2019). NMFS has reviewed recent draft Stock Assessment Reports, information on relevant Unusual Mortality Events, and other scientific literature. NMFS has preliminarily determined that there is no new information that 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 2019 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 **Federal Register** notices for the proposed initial IHA (84 FR 13252; April 4, 2019). NMFS has reviewed 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 **Federal Register** notices for the initial IHA, including the proposed 2019 IHA (84 FR 13252; April 4, 2019) and final 2019 IHA (84 FR 24476; May 28, 2019). Marine mammal occurrence data applicable to this authorization remain unchanged from the previously issued IHA. Similarly, the stocks taken, methods of estimating take, and types of take remain unchanged from the

previously issued IHA. As mentioned previously, due to the use of slightly different pile sizes, the source levels included in the renewal request (Table 1) are nearly identical, rather than identical, to those analyzed in the 2019 IHA and included in the initial IHA. In addition, the number of construction days and piles proposed in the Renewal request (Tables 2 and 3) are fewer than those included in the initial IHA.

Finally, the proposed maximum ensonified area, or region of influence (ROI), is smaller (0.42 square kilometers (km²)) than that analyzed in the initial IHA (0.85 km²) because the completed construction (e.g., southern closure wall and majority of the caisson seat foundation) created additional barriers to sound produced by construction activities.

TABLE 1—SUMMARY OF IN-WATER PILE DRIVING SOURCE LEVELS (SL) AT 10 m FROM SOURCE

Pile type and size	Installation method	SPL _{pk} , dB re 1 μPa	SPL _{rms} , dB re 1 μPa	SEL, dB re 1 μPa ² -s
30-inch steel pipe ¹	Vibratory	NA	167 (175)	167 (175)
27-inch sheet pile ²	Vibratory	NA	167 (163)	167 (163)
27-inch sheet pile ³	Impact	211 (205)	196 (190)	181 (180)
25-inch sheet pile ²	Vibratory	NA	163 (163)	163 (163)

SPL_{pk}, dB re 1 μPa = peak sound pressure level referenced to 1 micropascal; SPL_{rms} = root mean square sound pressure level referenced to 1 micropascal; SEL = sound exposure level referenced to 1 micropascal-squared-second; values from 2019 IHA in parentheses: ¹ vibratory installation of 36 in steel pile; ² vibratory installation of 24 in sheet pile; ³ impact installation of 24 in sheet pile.

Table 2 includes information for both the subset of activities using vibratory pile driving the Navy will not complete before the current IHA expires (e.g.,

completion of the caisson seat foundation and installation of the guide dolphins for the caisson seat float-in structure) as well as the newly proposed

activity, construction of a temporary blast wall.

TABLE 2—DISTANCES AND AREAS OF HARASSMENT ZONES, AND ASSOCIATED CONSTRUCTION ACTIVITIES FOR VIBRATORY PILE DRIVING

Section	Pile size (inch (in)) and count	Total pile driving days	Level A harassment injury (PTS onset)		Behavior disturbance Level B harassment
			High-frequency cetaceans 173 dB SEL _{cum} ¹ threshold radial distance/area	Phocid pinnipeds 201 dB SEL _{cum} ¹ threshold radial distance/area	All marine mammals 120 dB RMS threshold radial distance/ROI *
Caisson seat foundation.	27 in steel sheet (20)	2	25.4 m/0.001746 km ²	10.4 m/0.000338 km ²	13,594 m/0.42 km ² .
Guide dolphins for caisson float-in.	30 in steel pipe (12)	12	4.8 m/0.000072 km ²	2.0 m/0.000012 km ²	13,594 m/0.42 km ² .
Temporary blast wall	30 in steel pipe (15)	8	7.7 m/0.000185 km ²	3.2 m/0.000032 km ²	13,594 m/0.42 km ² .
Temporary blast wall	25 in steel sheet (70)	7	22.5 m/0.001378 km ²	9.2 m/0.000264 km ²	13,594 m/0.42 km ² .

* Region of influence (ROI); potentially ensonified area capped due to landmass and existing Dry Dock 1 structural interception of noise.
¹SEL_{cum} = cumulative sound exposure level.

Table 3 provides information for impact driving of sheet piles required to

complete construction of the caisson seat foundation.

TABLE 3—DISTANCES AND AREAS OF HARASSMENT ZONES, AND ASSOCIATED CONSTRUCTION ACTIVITIES FOR IMPACT PILE DRIVING

Section	Pile size (inch(in)) and count	Total pile driving days	Level A harassment injury (PTS onset)		Behavior disturbance Level B
			High-frequency cetaceans 155 dB SEL _{cum} ¹ threshold	Phocid pinnipeds (seals) 185 dB SEL _{cum} threshold	All marine mammals 160 dB RMS threshold radial distance/ROI *
Caisson seat foundation.	27 in steel sheet (20)	2	2,055.5 m/0.42 km ²	923.5 m/0.40 km ²	2,512 m/0.42 km ² .

* Region of influence (ROI); potentially ensonified area capped due to landmass and existing Dry Dock 1 structural interception of noise.
¹SEL_{cum} = cumulative sound exposure level.

Takes estimated in the renewal request were zero for three of the five

species included in the 2019 and initial IHAs (harbor porpoise, hooded seal, and

harp seal) because the densities for these species were zero at the specified

location during the proposed construction period (March 1, 2021 through March 31, 2021). For the other two species, the number of proposed

takes, which are indicated below in Table 4, are less than those authorized in the 2019 IHA (harbor seals: 284 Level A harassment takes, 776 Level B

harassment takes; gray seals: 25 Level A harassment takes, 35 Level B harassment takes).

TABLE 4—ESTIMATED TAKE PROPOSED FOR RENEWAL AND PROPORTION OF POPULATION POTENTIALLY AFFECTED

Species	Estimated take by Level B harassment	Estimated take by Level A harassment	Stock	Abundance of stock	Percentage of stock potentially affected
Harbor seal	29	2	W North Atlantic	75,834	0.04
Gray seal	3	0	W North Atlantic	27,131	0.01

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 2019 IHA (84 FR 24476; May 28, 2019) and initial IHA (84 FR 67261; December 9, 2019), and the discussion of the least practicable adverse impact included in that document remains accurate. The following measures are proposed for this renewal.

Proposed Mitigation Requirements

In summary, mitigation includes implementation of shut down procedures if any marine mammal approaches or enters the shutdown zone for pile driving (10 meters (m) (33 feet (ft)) for vibratory pile driving of steel pipe and sheet piles; 50 m (164 ft) for impact driving of steel pipe and sheet piles). For in-water heavy machinery work other than pile driving (e.g. standard barges, barge-mounted cranes, excavators, etc.), if a marine mammal comes within 10 m, operations must cease and vessels must reduce speed to the minimum level required to maintain steerage and safe working conditions. Trained observers must monitor to implement shutdowns and collect information at each active pile driving location (whether vibratory or impact driving of steel pipe or sheet piles).

Pile driving activities may only be conducted during daylight hours. If the shutdown zone is obscured by fog or poor lighting conditions, pile driving will not be initiated until the entire shutdown zone is visible. Work that has been initiated appropriately in conditions of good visibility may continue during poor visibility. The shutdown zone will be monitored for 30 minutes prior to initiating the start of pile driving, during the activity, and for 30 minutes after activities have ceased. If pinnipeds are present within the shutdown zone prior to pile driving, the

start will be delayed until the animals leave the shutdown zone of their own volition, or until 15 minutes elapse without re-sighting the animal(s).

Soft start procedures must be implemented at the start of each day's impact pile driving and at any time following cessation of impact driving for a period of thirty minutes or longer. The Navy must conduct an initial set of three strikes from the impact hammer at reduced energy, followed by a 30-second waiting period, succeeded by two subsequent three strike sets.

Proposed Monitoring Requirements

The Navy will employ trained protected species observers (PSOs) to conduct marine mammal monitoring for its Portsmouth Naval Shipyard 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. The PSOs will be located at the best vantage points (primarily on docks and piers) to observe and collect data on marine mammals in and around the project area. PSOs will monitor all Level A harassment zones and at least two-thirds of the Level B harassment zones for 30 minutes before, during, and after all pile installation work.

Proposed Reporting Requirements

The Navy must provide NMFS with a draft monitoring report within 90 calendar days of the expiration of the IHA, or within conclusion of the construction work, whichever comes first. 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. If comments are received from NMFS on the draft report within 30 days, a final report shall be submitted to NMFS within 30 days thereafter. If no comments are received from NMFS within 30 days after receipt of the draft report, the draft report will be considered final.

In the unanticipated event that the construction activities clearly cause the take of a marine mammal in a manner prohibited by this Authorization, such as an injury, serious injury, or mortality (Level A take), the Navy shall immediately cease all operations and immediately report the incident to the NMFS Office of Protected Resources and the NMFS Greater Atlantic Coast Region Stranding Coordinator. The report must include the following information:

1. Time, date, and location (latitude and longitude) of the incident;
2. Description of the incident;
3. Status of all sound sources used in the 24 hours preceding the incident;
4. Environmental conditions (wind speed, wind direction, sea state, cloud cover, visibility, water depth);
5. Description of the marine mammal observations in the 24 hours preceding the incident;
6. Species identification or description of the animal(s) involved;
7. The fate of the animal(s); and
8. Photographs or video footage of the animal(s), if equipment is available.

Activities shall not resume until NMFS is able to review the circumstances of the prohibited take. NMFS will work with the Navy to determine what is necessary to minimize the likelihood of further prohibited take and ensure MMPA compliance. The Navy may not resume their activities until notified by NMFS via letter, email, or telephone.

In the event that the Navy discovers an injured or dead marine mammal, and the marine mammal observer determines that the cause of injury or death is unknown and the death is relatively recent (less than a moderate state of decomposition), the Navy will immediately report the incident to the NMFS Office of Protected Resources, and the NMFS Greater Atlantic Coast Region Stranding Coordinator. The report must include the same information identified above. Activities may continue while NMFS reviews the circumstances of the incident. NMFS will work with the Navy to determine

whether modifications in the activities are appropriate.

In the event that the Navy discovers an injured or dead marine mammal, and the marine mammal observer determines that the injury or death is not associated with or related to the activities authorized in the IHA (previously wounded animal, carcass with moderate to advanced decomposition, or scavenger damage), the Navy shall report the incident to the NMFS Office of Protected Resources, and the NMFS Greater Atlantic Coast Region Stranding Coordinator within 24 hours of the discovery. The Navy shall provide photographs or video footage (if available) or other documentation of the stranded animal(s) to NMFS Office of Protected Resources, and the NMFS Greater Atlantic Coast Region Stranding Coordinator. The Navy may continue its operations under such a case.

Public Comments

As noted previously, NMFS published a notice of a proposed 2019 IHA (84 FR 13252; April 4, 2019) and solicited public comments on both our proposal to issue the 2019 IHA for the Navy's construction activities and on the potential for an IHA renewal, should certain requirements be met.

All public comments were addressed in the notice announcing the issuance of the initial IHA (84 FR 24476; May 28, 2019). Below, we describe how we have addressed, with updated information where appropriate, any comments received that specifically pertain to the renewal of the initial IHA.

Comment: The Commission recommends that NMFS refrain from implementing its proposed renewal process and instead use abbreviated **Federal Register** notices and reference existing documents to streamline the IHA process. If NMFS adopts the proposed renewal process, the Commission recommends that NMFS provide the Commission and the public a legal analysis supporting its conclusion that the process is consistent with section 101(a)(5)(D) of the MMPA.

Response: In prior responses to comments about IHA renewals (*e.g.*, 84 FR 52464; October 02, 2019 and 85 FR 53342; August 28, 2020), NMFS has explained how the renewal process, as implemented, is consistent with the statutory requirements contained in section 101(a)(5)(D) of the MMPA, 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

The construction activities proposed by the Navy are identical or nearly identical to those analyzed in the initial IHA, as are the method of taking and the effects of the action (though the amount of proposed authorized take is notably lower). The potential effects of the Navy's activities are limited to Level A harassment and Level B harassment in the form of auditory injury and behavioral disturbance. In analyzing the effects of the activities in the 2019 IHA, NMSF determined that the Navy'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 percent of all stocks). The mitigation measures and monitoring and reporting requirements as described above are identical to the initial IHA.

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 affect 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) the Navy'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 (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 marine mammal species is expected to result from this activity, and none would be

authorized. Therefore, NMFS has determined that 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 IHA renewal to the Navy for conducting in-water construction activities associated with the modification and expansion of Portsmouth Naval Shipyard Dry Dock 1 from the date of issuance through February 27, 2022, provided the previously described mitigation, monitoring, and reporting requirements are incorporated. A draft of the proposed and final 2019 IHA can be found at <https://www.fisheries.noaa.gov/national/marine-mammal-protection/incidental-take-authorizations-construction-activities>. 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: February 17, 2021.

Donna S. Wieting,

*Director, Office of Protected Resources,
National Marine Fisheries Service.*

[FR Doc. 2021-03507 Filed 2-19-21; 8:45 am]

BILLING CODE 3510-22-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648-XA877]

Fisheries of the Exclusive Economic Zone off Alaska; Alaska Groundfish and Halibut Seabird Working Group; Public Meeting

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

ACTION: Notice of public meeting.

SUMMARY: NMFS Alaska Groundfish and Halibut Seabird Working Group will meet to discuss seabird/fisheries interactions (vessel collisions), development of an Alaska coordinated strategic plan for reporting and monitoring fisheries interactions with birds listed under the Endangered Species Act, and an update on whether or not the short-tailed albatross is actually two distinct species.

DATES: The meeting will be held on March 10, 2021, from 9 a.m. to 4:30

p.m., and on March 11, 2020, from 9 a.m. to 12 p.m., Alaska Daylight Time.
ADDRESSES: The meeting will be held virtually.

FOR FURTHER INFORMATION CONTACT: Joseph Krieger, 907-586-7650.

SUPPLEMENTARY INFORMATION: The Alaska Groundfish and Halibut Seabird Working Group formed as a result of the 2015 biological opinion on effects of the Fishery Management Plans for the Gulf of Alaska and Bering Sea/Aleutian Islands groundfish fisheries on short-tailed albatross.¹ The working group is tasked with reviewing information for mitigating effects of the groundfish and halibut fisheries on short-tailed albatross and other seabirds. The workgroup will hold a virtual meeting March 10 and 11, 2021. Meeting topics include seabird/fisheries interactions (vessel collisions), development of an Alaska coordinated strategic plan for reporting and monitoring fisheries interactions with birds listed under the Endangered Species Act, and update on whether or not the short-tailed albatross is actually two distinct species. For participation information and meeting agenda, please contact Joseph Krieger (joseph.krieger@noaa.gov).

NMFS will keep the North Pacific Fisheries Management Council (Council) apprised of the working group's activities and any resulting recommendations for methods to reduce seabird bycatch. Any changes to seabird avoidance regulations are expected to follow the standard Council process.

Special Accommodations

Requests for sign language interpretation or other auxiliary aids should be directed to Joseph Krieger, 907-586-7650, at least 5 working days prior to the meeting date.

Dated: February 17, 2021.

Jennifer M. Wallace,

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

[FR Doc. 2021-03515 Filed 2-19-21; 8:45 am]

BILLING CODE 3510-22-P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID: DoD-2021-OS-0005]

Manual for Courts-Martial; Proposed Amendments

AGENCY: Joint Service Committee on Military Justice (JSC), DoD.

ACTION: Annual review of the Manual for Courts-Martial, United States.

SUMMARY: Pursuant to the authorities found in the **SUPPLEMENTARY INFORMATION** section of this notice, the JSC is conducting its annual review of the Manual for Courts-Martial (MCM), United States. The JSC invites members of the public to suggest changes to the MCM. Please provide supporting rationale for any proposed changes.

DATES: Proposed changes must be received no later than April 23, 2021.

ADDRESSES: You may submit comments, identified by docket number and title, by any of the following methods:

- *Federal Rulemaking Portal:* <http://www.regulations.gov>.

Follow the instructions for submitting comments.

- *Mail:* DoD cannot receive written comments at this time due to the COVID-19 pandemic. Comments should be sent electronically to the docket listed above.

Instructions: Comments must be submitted by one of the above methods to ensure they are received, documented, and considered by the JSC. All submissions received must include the agency name and docket number for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the internet at <http://www.regulations.gov> as they are received without change, including any personal identifiers or contact information.

FOR FURTHER INFORMATION CONTACT: Major Joy E. Hewitt, USAF, Executive Secretary, JSC, via phone at 240-612-4820 or email at joy.hewitt.1@us.af.mil. The JSC public website is located at <http://jsc.defense.gov>.

SUPPLEMENTARY INFORMATION: Pursuant to Executive Order 12473, "Manual for Courts-Martial, United States, 1984," and Department of Defense Instruction 5500.17, "Role and Responsibilities of the Joint Service Committee on Military Justice (JSC) (available at <https://www.esd.whs.mil/Portals/54/Documents/DD/issuances/dodi/550017-5C.PDF?ver=2018-02-21-074422-370>)," the JSC is conducting its annual review of the MCM, United States.

The committee invites members of the public to suggest changes to the MCM. Please provide supporting rationale for any proposed changes.

Dated: February 16, 2021.

Aaron T. Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2021-03454 Filed 2-19-21; 8:45 am]

BILLING CODE 5001-06-P

DEPARTMENT OF DEFENSE

Department of the Navy

[Docket ID: USN-2021-HQ-0002]

Privacy Act of 1974; System of Records

AGENCY: United States Marine Corps (USMC), Department of Defense (DoD).

ACTION: Notice of a new system of records.

SUMMARY: The Department of the Navy is establishing a new System of Records entitled the Command Individual Risk and Resiliency System (CIRRAS) application. The CIRRAS application will be used by the USMC to enable Commanding Officers and Senior Enlisted Advisors to make informed and timely decisions on Force Preservation Risk Assessments, to optimize individual/unit readiness, and to facilitate enterprise-wide risk management. Individual data will assist commanders by quickly identifying those Marines or Service Members requiring immediate command attention. Trend analysis will assist USMC commanders to implement mitigation strategies to improve overall individual/unit readiness. These records will also be used as a management tool for statistical analysis, tracking, reporting, evaluating program effectiveness, and conducting research.

DATES: This new system of records is effective upon publication; however, comments on the Routine Uses will be accepted on or before March 24, 2021. The Routine Uses are effective at the close of the comment period.

ADDRESSES: You may submit comments, identified by docket number and title, by any of the following methods:

- *Federal Rulemaking Portal:* <https://www.regulations.gov>.

Follow the instructions for submitting comments.

- *Mail:* DoD cannot receive written comments at this time due to the COVID-19 pandemic. Comments should be sent electronically to the docket listed above.

Instructions: All submissions received must include the agency name and docket number for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these

¹ Available at: <https://www.fws.gov/alaska/pages/endangered-species-program/consultation-endangered-species>.

submissions available for public viewing on the internet at <https://www.regulations.gov> as they are received without change, including any personal identifiers or contact information.

FOR FURTHER INFORMATION CONTACT:

Sally A. Hughes, FOIA/PA Program Manager (ARSF), Headquarters, U.S. Marine Corps, 3000 Marine Corps Pentagon, Washington, DC 20350-3000, telephone (703) 614-4008.

SUPPLEMENTARY INFORMATION: The “Marine Corps Risk and Resiliency Records” system of records is being established by the USMC to support Force Preservation Risk Assessments. The Marine Corps force preservation process is the formalized method used by commanders to identify individual Marine risk factors and to apply holistic risk management measures to improve individual and unit readiness. Every day, this process assists leaders across the Corps to identify those in need. However, gaps in knowledge have historically limited the effectiveness of the effort. To improve the process, the USMC is developing the CIRRAS application, which compiles individual force preservation data input by small unit leaders, medical officers, and other support staff. By presenting timely, prioritized, actionable information to those who can help Marines, and by protecting unauthorized disclosure through strict access limits and cybersecurity, leaders will be better equipped to reduce destructive behaviors in their units.

Force Preservation Risk Assessments are based on the identification and tracking of individual Service Member behaviors associated with increased risk or resiliency as defined by the Commandant’s “Six Fs,” as defined in Marine Corps Order 1500.61, 28 July 2017. The Six Fs are Fidelity, Fighter, Fitness, Family, Finances and Future. Force Preservation Risk Assessments include critical stressors that are environmental factors or experiences that can overtax a Service Member’s coping resources. The intensity or accumulation of multiple stressors is linked to a greater likelihood of harmful reactions including death by suicide. The CIRRAS application is a networked, web-based application that captures risk, resiliency and critical stressor factors for all United States Marines and United States Armed Forces Service Members assigned to the USMC to provide Force Preservation information to the unit commander. The CIRRAS will directly support Commanders/Officers in Charge and Senior Enlisted Advisors by providing a tool to enable

proactive identification and assessment of individual Marines’ or Service Members’ risk, resiliency, and critical stressor factors. Also, the system will allow the transfer of the same factors between commands in order to optimize individual/unit readiness and facilitate enterprise-wide risk management of individual Marines’ risk status. The CIRRAS will be used by Regimental/Group Commanders through immediate supervisors (Platoon Commander/Officers in Charge) of all United States Marines and United States Armed Forces Service Members assigned to the USMC in accordance with Marine Corps Order 5100.29B, Marine Corps Safety Program; MCO 1500.60, Force Preservation Council (FPC) Program; and other Force Preservation Directives.

The DoD notices for systems of records subject to the Privacy Act of 1974, as amended, have been published in the **Federal Register** and are available from the address in **FOR FURTHER INFORMATION CONTACT** or at the Defense Privacy, Civil Liberties, and Transparency Division website at <https://dpcl.d.defense.gov>.

In accordance with 5 U.S.C. 552a(r) and Office of Management and Budget (OMB) Circular No. A-108, the DoD has provided a report of this system of records to the OMB and to Congress.

Dated: February 10, 2021.

Kayyonne T. Marston,
Alternate OSD Federal Register Liaison Officer, Department of Defense.

SYSTEM NAME AND NUMBER:

Marine Corps Risk and Resiliency Records, M05230-1.

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

Command Individual Risk and Resiliency Assessment System (CIRRAS) application, AWS GovCloud (US-East), NIWC Atlantic, Charleston, Component Enterprise Data Center (CEDC), P.O. Box 190022, Bldg. 3148, North Charleston, SC 29419-9022.

SYSTEM MANAGER(S):

CIRRAS System Manager, Headquarters Marine Corps, Manpower & Reserve Affairs (M&RA), Marine & Family Programs (MF) Division, 3280 Russell Rd., Quantico, VA 22134-5143, 4th Deck, CIRRAS.Support@usmc.mil, 703-432-9294.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 5013, Secretary of the Navy; 10 U.S.C. 5041, Headquarters, Marine Corps; Department of Defense (DoD) Instruction 6490.08, Command

Notification Requirements to Dispel Stigma in Providing Mental Health Care to Service Members; DoD 6025.18-R, DoD Health Information Privacy Regulation; Marine Corps Order (MCO) 1500.60, Force Preservation Council (FPC) Program; MCO 3500.27C, Risk Management; MCO 1752.5C, Sexual Assault Prevention & Response; MCO 5300.17A, Substance Abuse Program; MCO 5100.29B, Marine Corps Safety Program; MCO 5100.19F, Marine Corps Traffic Safety Program.

PURPOSE(S) OF THE SYSTEM:

To capture risk, resiliency, and critical stressor factors for all United States Marines or United States Armed Forces Service Members assigned to a United States Marine Corps (USMC) unit, and to provide Force Preservation information to the USMC Unit Commander; to transfer the same between commands, in order to optimize individual/unit readiness and facilitate enterprise-wide risk management of individual Marines; to help prevent adverse outcomes including the loss of life; to quickly identify those Marines or Service Members requiring immediate command attention; and to provide trend analysis to assist in implementing mitigation strategies to improve individual/unit readiness.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Active duty and Reserve USMC military personnel, and any other United States Armed Forces Service Members assigned to the USMC.

CATEGORIES OF RECORDS IN THE SYSTEM:

Biographic information to include: Full legal name, DoD ID number/Electronic Data Interchange Personal Identifier (EDIPI), citizenship/legal status, race/ethnicity, date and place of birth, gender/gender identification, home/ mailing address, and phone numbers; marital status and divorce date (if any), alleged infidelity, and geographic separation from significant other; name, number of dependents, expecting parent, foster parenting, pending adoption, acting caregiver, family care plan, and housing information; date of entry, age, position/ title, rank/grade, duty status, deployments, service member photo, Military Occupational Specialty (MOS), awards, End of Active Service (EAS), Pay Entry Base Date (PEBD), General Technical Score (GT) score, time in service, waivers, performance summary, monitored command code, future monitored command code, Reporting Unit Code (RUC), work email,

deployment history, discipline, Non-Judicial Punishment (NJP), loss of rank, loss of pay, security clearance revocation or suspension, law enforcement events identified on military blotter, under investigation by military or civilian commands/agencies, arrested within the last twelve months, and restraining order; Command Stressors information to include: Combat exposure, responsible for killing or injury in combat, and combat action ribbons; driver's license, restricted license, and base driving privileges; clubs and spiritual affiliations; fitness test scores and health promotion courses.

General Education Development (GED), vocational training, college level, degrees, and certifications, military career qualifications, military career progression, and military career administration status; factors affecting personal finance status, wage garnishments, past-due bills, bankruptcy collection agency action, and gambling debt or issues; Force Preservation Risk and Resiliency Level; Individual Service Member Risk, Resiliency and Critical Stressor life events to include: High-risk hobbies, exposure to suicide, non-suicidal self-injury, witness/victim exposure to crime or violence, hazing, sexual harassment, sexual assault, violence, child abuse, domestic abuse, neglect, behavioral and mental health information, traumatic brain injury, accidental death, alleged offender of crime or violence; Comments by commanders and command leadership Force Preservation Council members; alcohol/drug treatment, inpatient/outpatient, inpatient location, alcohol screening and use/misuse, drug screening and use/misuse, drug or alcohol related incident(s), history of substance abuse, duty-limiting diagnosis, under care for chronic treatment, prescription drugs (duty restricting), history of substance abuse, pending medical board decision, psychotropic or narcotic drugs prescribed, hospitalization, and critical illness/injury.

RECORD SOURCE CATEGORIES:

Records and information stored in this system of records are obtained from: Service Individuals, Service Member's first-line leader, command staff, commanding officer, small unit leaders, medical officers, other support staff, and their assigned Force Preservation Council Members as well as authoritative data from Marine Corps Total Force System (MCTFS). Future iterations of the system may also include information from Department of Defense Tricare Pharmacy Tracking,

Defense Enrollment Eligibility Reporting System, Marine Corps Recruiting Information Support System, Armed Forces Health Longitudinal Technology Application/GENESIS, and Manpower and Reserve Affairs Marine and Family Programs.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act of 1974, as amended, the records contained herein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

a. To contractors, grantees, experts, consultants, students, and others performing or working on a contract, service, grant, cooperative agreement, or other assignment for the federal government when necessary to accomplish an agency function related to this system of records.

b. To the appropriate Federal, State, local, territorial, tribal, foreign, or international law enforcement authority or other appropriate entity where a record, either alone or in conjunction with other information, indicates a violation or potential violation of law, whether criminal, civil, or regulatory in nature.

c. To any component of the Department of Justice for the purpose of representing the DoD, or its components, officers, employees, or members in pending or potential litigation to which the record is pertinent.

d. In an appropriate proceeding before a court, grand jury, or administrative or adjudicative body or official, when the DoD or other Agency representing the DoD determines that the records are relevant and necessary to the proceeding; or in an appropriate proceeding before an administrative or adjudicative body when the adjudicator determines the records to be relevant to the proceeding.

e. To the National Archives and Records Administration for the purpose of records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

f. To a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of, and at the request of, the individual who is the subject of the record.

g. To appropriate agencies, entities, and persons when (1) the DoD suspects or confirms a breach of the system of records; (2) the DoD determines as a result of the suspected or confirmed

breach there is a risk of harm to individuals, the DoD (including its information systems, programs, and operations), the Federal Government, or national security; and (3) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the DoD's efforts to respond to the suspected or confirmed breach or to prevent, minimize, or remedy such harm.

h. To another Federal agency or Federal entity, when the DoD determines that information from this system of records is reasonably necessary to assist the recipient agency or entity in (1) responding to a suspected or confirmed breach or (2) preventing, minimizing, or remedying the risk of harm to individuals, the recipient agency or entity (including its information systems, programs and operations), the Federal Government, or national security, resulting from a suspected or confirmed breach.

i. To such recipients and under such circumstances and procedures as are mandated by Federal statute or treaty.

POLICIES AND PRACTICES FOR STORAGE OF RECORDS:

Records in this system are stored in electronic format in accordance with the safeguards mentioned below.

POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS:

Records may be retrieved by name or EDIPI/DoD ID number.

POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS:

Records are permanent and maintained by USMC for 25 years, then transferred to the National Archives and Records Administration.

ADMINISTRATIVE, PHYSICAL, AND TECHNICAL SAFEGUARDS:

Access is limited to authorized personnel with a need to know to perform their official assigned responsibilities. Users are granted only those privileges that are necessary for their job requirements. Access is controlled through use of Common Access Cards, DoD Public Key Infrastructure certificates, user identification and passwords, firewall, and role-based access controls. Personally Identifiable Information (PII) and Health Insurance Portability and Accountability Act (HIPAA) training is required for all users. Physical access to AWS data centers is logged and monitored. The physical access points to server rooms are monitored using Closed Circuit Television Camera (CCTV). Physical access is controlled at building ingress points by professional

security staff utilizing surveillance, detection systems, and other electronic means. Authorized staff utilize multi-factor authentication mechanisms to access and exit data centers and server rooms. Entrances to server rooms are secured with devices that sound alarms to initiate an incident response if the door is forced or held open. Electronic intrusion detection systems are installed within the data layer to monitor, detect, and automatically alert appropriate personnel of security incidents. Data at Rest Encryption and Risk Management Framework security controls, which include security controls for the PII and Protected Health Information (PHI) overlays, are utilized.

RECORDS ACCESS PROCEDURES:

Individuals seeking access to information about themselves contained in this system of records should address written requests to the commanding officer where assigned or to the system manager at Headquarters Marine Corps, Manpower & Reserve Affairs (M&RA), Marine & Family Programs (MF) Division, 3280 Russell Rd., Quantico, VA 22134-5143, 4th Deck. Signed, written requests should include the individual's full name, EDIPI/DoD ID number, telephone number, street address, email address, and name and number of this System of Records Notice (SORN). In addition, the requestor must provide either a notarized statement or a declaration made in accordance with 28 U.S.C. 1746, in the appropriate format:

If executed outside the United States: "I declare (or certify, verify, or state) under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on (date). (Signature)."

If executed within the United States, its territories, possessions, or commonwealths: "I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct. Executed on (date). (Signature)."

CONTESTING RECORD PROCEDURES:

The DoD rules for accessing records, contesting contents, and appealing initial agency determinations are contained in 32 CFR part 310, or may be obtained from the system manager.

NOTIFICATION PROCEDURES:

Individuals seeking to determine if information about themselves is contained in this system should address written requests to the commanding officer where assigned or to the system manager at Headquarters Marine Corps, Manpower & Reserve Affairs (M&RA), Marine & Family Programs (MF)

Division, 3280 Russell Rd., Quantico, VA 22134-5143, 4th Deck. Signed written requests should include the individual's full name, telephone number, street address, email address, and name and number of this SORN. In addition, the requestor must provide either a notarized statement or a declaration made in accordance with 28 U.S.C. 1746, using the following format:

If executed outside the United States: "I declare (or certify, verify, or state) under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on (date). (Signature)."

If executed within the United States, its territories, possessions, or commonwealths: "I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct. Executed on (date). (Signature)."

EXEMPTIONS PROMULGATED FOR THE SYSTEM:

None.

HISTORY:

None.

[FR Doc. 2021-03453 Filed 2-19-21; 8:45 am]

BILLING CODE 5001-06-P

DEPARTMENT OF EDUCATION

Applications for New Awards; National Professional Development Program

AGENCY: Office of English Language Acquisition, Department of Education.

ACTION: Notice.

SUMMARY: The Department of Education (Department) is issuing a notice inviting applications for fiscal year (FY) 2021 for the National Professional Development (NPD) program, Assistance Listing Number 84.365Z. This notice relates to the approved information collection under OMB control number 1894-0006.

DATES:

Applications Available: February 22, 2021.

Deadline for Notice of Intent to Apply: March 15, 2021.

Deadline for Transmittal of Applications: April 23, 2021

Deadline for Intergovernmental Review: June 22, 2021.

ADDRESSES: For the addresses for obtaining and submitting an application, please refer to our Common Instructions for Applicants to Department of Education Discretionary Grant Programs, published in the **Federal Register** on February 13, 2019 (84 FR 3768) and available at www.govinfo.gov/content/pkg/FR-2019-02-13/pdf/2019-02206.pdf.

FOR FURTHER INFORMATION CONTACT:

Francisco J. López, Jr., U.S. Department

of Education, 400 Maryland Avenue SW, room 4w245, Washington, DC 20202. Telephone: (202) 401-1433. Email: NPD2021@ed.gov.

If you use a telecommunications device for the deaf (TDD) or a text telephone (TTY), call the Federal Relay Service (FRS), toll free, at 1-800-877-8339.

SUPPLEMENTARY INFORMATION:

Full Text of Announcement

I. Funding Opportunity Description

Purpose of Program: The NPD program, authorized by sections 3111(c)(1)(C) and 3131 of the Elementary and Secondary Education Act of 1965, as amended (ESEA), awards grants on a competitive basis, for a period of not more than five years, to institutions of higher education (IHEs) or public or private entities with relevant experience and capacity, in consortia with State educational agencies (SEAs) or local educational agencies (LEAs). The purpose of these grants is to provide professional development activities that will improve classroom instruction for English learners (ELs) and assist educational personnel working with such children to meet high professional standards, including standards for certification and licensure as teachers who work in language instruction educational programs or serve ELs.

Grants awarded under this program may be used—

(1) For effective pre-service or in-service professional development programs that will improve the qualifications and skills of educational personnel involved in the education of ELs, including personnel who are not certified or licensed and educational paraprofessionals, and for other activities to increase teacher and school leader effectiveness in meeting the needs of ELs;

(2) For the development of program curricula appropriate to the needs of the consortia participants involved;

(3) To support strategies that strengthen and increase parent, family, and community member engagement in the education of ELs;

(4) To develop, share, and disseminate effective practices in the instruction of ELs and in increasing the academic achievement of ELs, including the use of technology-based programs;

(5) In conjunction with other Federal need-based student financial assistance programs, for financial assistance, including costs related to tuition, fees, and books for enrolling in courses required to complete the degree involved, to meet certification or

licensing requirements for teachers who work in language instruction educational programs or serve ELs; and

(6) As appropriate, to support strategies that promote school readiness of ELs and their transition from early childhood education programs, such as Head Start or State-run preschool programs, to elementary school programs.

Background: Educator effectiveness is the most important in-school factor affecting student achievement and success.¹ The NPD program is a Federal grant program that offers professional development specifically for educators of ELs. To improve the academic achievement of ELs, the NPD program supports pre-service and in-service instruction for teachers and other staff, including school leaders, working with ELs.

The NPD program has funded a range of grantees that are currently implementing 92 projects across the country. As the EL population continues to grow, it has become increasingly important to identify and expand the use of evidence-based instructional practices that improve EL learning outcomes.

The body of evidence on effective language, literacy, and content instruction for ELs, including specific instructional practices for English language acquisition, is growing steadily, as documented by the 2014 What Works Clearinghouse (WWC) Practice Guide for teaching ELs, available at: <http://ies.ed.gov/ncee/wwc/PracticeGuide.aspx?sid=19>. To encourage the use of evidence to increase the effectiveness of projects funded by NPD, the Department has included Competitive Preference Priority 1 for projects designed to improve academic outcomes for ELs using strategies supported by moderate evidence (as defined in this notice).

While we are encouraged by the growing body of evidence supporting effective EL instruction, this competition is designed to promote further study of pre- and in-service professional development models for EL educators. We encourage NPD applicants to design rigorous evaluations of their proposed activities that, if well-implemented, would meet the WWC Evidence Standards With Reservations. We believe that such evaluations will help ensure that projects funded under the NPD program help expand the knowledge base on effective EL instructional practice.

The Department is also interested in supporting dual language acquisition approaches that are effective in developing biliteracy skills. Evidence suggests that students who are biliterate have certain cognitive and social benefits compared to their monolingual peers. Further, research suggests that despite initial lags, students in well-implemented dual language programs eventually perform equal to or better than their counterparts in English-only programs.²

In addition, we recognize that linguistic and cultural diversity is an asset and that dual language approaches may also enhance the preservation of heritage languages and cultures. These approaches may be particularly impactful for diverse populations of ELs, such as immigrant children and youth and Native American students. Accordingly, we have included one invitational priority in this competition for applicants proposing to provide EL educators with professional development on effective dual language instruction.

Priorities: This notice includes one absolute priority, two competitive preference priorities, and one invitational priority. The absolute priority is from section 3131 of the ESEA (20 U.S.C. 6861). Competitive Preference Priority 1 is from 34 CFR 75.226(d)(2). Competitive Preference Priority 2 is from the Department's notice of final supplemental priorities and definitions (Supplemental Priorities), published in the **Federal Register** on March 2, 2018 (83 FR 9096).

Absolute Priority: For FY 2021 and any subsequent year in which we make awards from the list of unfunded applications from this competition, this priority is an absolute priority. Under 34 CFR 75.105(c)(3) we consider only applications that meet this priority.

This priority is:
Providing Professional Development To Improve Instruction for English Learners.

Under this priority we provide funding to projects that provide professional development activities that will improve classroom instruction for ELs and assist educational personnel working with ELs to meet high professional standards, including standards for certification and licensure as teachers who work in language instruction educational programs or serve ELs.

² Valentino, R.A., and Reardon, S.F. (2015). Effectiveness of four instructional programs designed to serve English language learners: Variation by ethnicity and initial English proficiency. Educational Evaluation and Policy Analysis, doi: 10.3102/0162373715573310.

Competitive Preference Priorities: For FY 2021 and any subsequent year in which we make awards from the list of unfunded applications from this competition, these priorities are competitive preference priorities. Under 34 CFR 75.105(c)(2), we award an additional five points to an application that meets Competitive Preference Priority 1, and we award up to an additional five points to an application, depending on how well the application meets Competitive Preference Priority 2. An application may be awarded up to a maximum of 10 additional points under these competitive preference priorities. Applicants may address none, one, or both of the competitive preference priorities. An applicant must clearly identify in the project abstract and the project narrative section of its application the competitive preference priority or priorities it wishes the Department to consider for purposes of earning competitive preference priority points.

These priorities are:
Competitive Preference Priority 1—Moderate Evidence (0 or 5 points).

Applications proposing projects supported by evidence that meets the conditions in the definition of “moderate evidence” (as defined in this notice).

Competitive Preference Priority 2—Promoting Literacy (up to 5 points).

Projects that are designed to address one or both of the following priority areas:

(a) Providing families with evidence-based (as defined in this notice) strategies for promoting literacy. This may include providing families with access to books or other physical or digital materials or content about how to support their child's reading development, or providing family literacy activities (as defined in section 203(9) of the Workforce Innovation and Opportunity Act).

(b) Facilitating the accurate and timely use of data by educators to improve reading instruction and make informed decisions about how to help children or students build literacy skills while protecting their student and family privacy.

Invitational Priority: For FY 2021 and any subsequent year in which we make awards from the list of unfunded applications from this competition, this priority is an invitational priority. Under 34 CFR 75.105(c)(1) we do not give an application that meets this invitational priority a competitive or absolute preference over other applications.

This priority is:
Dual Language Approaches.

¹ Calderón, M., Slavin, R., and Sánchez, M. (2011). Effective instruction for English learners. *Future of Children*, 21(1), 103–127.

We encourage applicants to propose projects to improve educator preparation and professional learning for dual language implementation models to support effective instruction for ELs. In particular, we encourage such approaches to take into account the unique needs of recently arrived EL students, immigrant children and youth, and Native American students who are members of Federally recognized Indian Tribes.

Definitions: The following definitions are from 34 CFR 77.1, the Supplemental Priorities, and sections 3201 and 8101 of the ESEA (20 U.S.C. 7011 and 7801), and they apply to the priorities and selection criteria in this notice. The source of each definition is noted in parentheses following the text of the definition.

Ambitious means promoting continued, meaningful improvement for program participants or for other individuals or entities affected by the grant or representing a significant advancement in the field of education research, practices, or methodologies. When used to describe a performance target, whether a performance target is ambitious depends upon the context of the relevant performance measure and the baseline for that measure. (34 CFR 77.1)

Baseline means the starting point from which performance is measured and targets are set. (34 CFR 77.1)

Demonstrates a rationale means a key project component included in the project's logic model is informed by research or evaluation findings that suggest the project component is likely to improve relevant outcomes. (34 CFR 77.1)

English learner, when used with respect to an individual, means an individual—

- (A) Who is aged 3 through 21;
- (B) Who is enrolled or preparing to enroll in an elementary school or secondary school;
- (C)(i) Who was not born in the United States or whose native language is a language other than English;
- (ii)(I) Who is a Native American or Alaska Native, or a Native resident of the outlying areas; and
- (II) Who comes from an environment where a language other than English has had a significant impact on the individual's level of English language proficiency; or
- (iii) Who is migratory, whose native language is a language other than English, and who comes from an environment where a language other than English is dominant; and
- (D) Whose difficulties in speaking, reading, writing, or understanding the

English language may be sufficient to deny the individual—

- (i) The ability to meet the challenging State academic standards;
- (ii) The ability to successfully achieve in classrooms where the language of instruction is English; or
- (iii) The opportunity to participate fully in society. (Section 8101 of the ESEA)

Evidence-based means the proposed project component is supported by moderate evidence. (34 CFR 77.1)

Experimental study means a study that is designed to compare outcomes between two groups of individuals (such as students) that are otherwise equivalent except for their assignment to either a treatment group receiving a project component or a control group that does not. Randomized controlled trials, regression discontinuity design studies, and single-case design studies are the specific types of experimental studies that, depending on their design and implementation (e.g., sample attrition in randomized controlled trials and regression discontinuity design studies), can meet What Works Clearinghouse (WWC) standards without reservations as described in the WWC Handbooks:

(i) A randomized controlled trial employs random assignment of, for example, students, teachers, classrooms, or schools to receive the project component being evaluated (the treatment group) or not to receive the project component (the control group).

(ii) A regression discontinuity design study assigns the project component being evaluated using a measured variable (e.g., assigning students reading below a cutoff score to tutoring or developmental education classes) and controls for that variable in the analysis of outcomes.

(iii) A single-case design study uses observations of a single case (e.g., a student eligible for a behavioral intervention) over time in the absence and presence of a controlled treatment manipulation to determine whether the outcome is systematically related to the treatment. (34 CFR 77.1)

Immigrant children and youth means individuals who—

- (A) Are aged 3 through 21;
- (B) Were not born in any State; and
- (C) Have not been attending one or more schools in any one or more States for more than 3 full academic years. (Section 3201 of the ESEA)

Institution of higher education has the meaning given that term in section 101(a) of the Higher Education Act of 1965. (Section 8101(29) of the ESEA)

Language instruction educational program means an instruction course—

(A) In which an English learner is placed for the purpose of developing and attaining English proficiency while meeting challenging State academic standards; and

(B) That may make instructional use of both English and a child's native language to enable the child to develop and attain English proficiency, and may include the participation of English proficient children if such course is designed to enable all participating children to become proficient in English and a second language. (Section 3201 of the ESEA)

Logic model (also referred to as a theory of action) means a framework that identifies key project components of the proposed project (i.e., the active "ingredients" that are hypothesized to be critical to achieving the relevant outcomes) and describes the theoretical and operational relationships among the key project components and relevant outcomes. (34 CFR 77.1.)

Note: Applicants may use resources such as the Pacific Education Laboratory's Education Logic Model Application (<http://relpacific.mcrel.org/resources/elm-app>) to help design their logic models.

Moderate evidence means that there is evidence of effectiveness of a key project component in improving a relevant outcome for a sample that overlaps with the populations or settings proposed to receive that component, based on a relevant finding from one of the following:

(i) A practice guide prepared by the WWC using version 2.1, 3.0, 4.0, or 4.1 of the WWC Handbooks reporting a "strong evidence base" or "moderate evidence base" for the corresponding practice guide recommendation;

(ii) An intervention report prepared by the WWC using version 2.1, 3.0, 4.0, or 4.1 of the WWC Handbooks reporting a "positive effect" or "potentially positive effect" on a relevant outcome based on a "medium to large" extent of evidence, with no reporting of a "negative effect" or "potentially negative effect" on a relevant outcome; or

(iii) A single experimental study or quasi-experimental design study reviewed and reported by the WWC using version 2.1, 3.0, 4.0, or 4.1 of the WWC Handbooks, or otherwise assessed by the Department using version 4.1 of the WWC Handbooks, as appropriate, and that—

(A) Meets WWC standards with or without reservations;

(B) Includes at least one statistically significant and positive (i.e., favorable) effect on a relevant outcome;

(C) Includes no overriding statistically significant and negative effects on relevant outcomes reported in the study or in a corresponding WWC intervention report prepared under version 2.1, 3.0, 4.0, or 4.1 of the WWC Handbooks; and

(D) Is based on a sample from more than one site (e.g., State, county, city, school district, or postsecondary campus) and includes at least 350 students or other individuals across sites. Multiple studies of the same project component that each meet requirements in paragraphs (iii)(A), (B), and (C) of this definition may together satisfy the requirement in this paragraph (iii)(D). (34 CFR 77.1.)

Project component means an activity, strategy, intervention, process, product, practice, or policy included in a project. Evidence may pertain to an individual project component or to a combination of project components (e.g., training teachers on instructional practices for English learners and follow-on coaching for these teachers). (34 CFR 77.1)

Quasi-experimental design study means a study using a design that attempts to approximate an experimental study by identifying a comparison group that is similar to the treatment group in important respects. This type of study, depending on design and implementation (e.g., establishment of baseline equivalence of the groups being compared), can meet WWC standards with reservations, but cannot meet WWC standards without reservations, as described in the WWC Handbooks. (34 CFR 77.1)

Relevant outcome means the student outcome(s) or other outcome(s) the key project component is designed to improve, consistent with the specific goals of the program. (34 CFR 77.1)

Strong evidence means that there is evidence of the effectiveness of a key project component in improving a relevant outcome for a sample that overlaps with the populations and settings proposed to receive that component, based on a relevant finding from one of the following:

(i) A practice guide prepared by the WWC using version 2.1, 3.0, 4.0, or 4.1 of the WWC Handbooks reporting a “strong evidence base” for the corresponding practice guide recommendation;

(ii) An intervention report prepared by the WWC using version 2.1, 3.0, 4.0, or 4.1 of the WWC Handbooks reporting a “positive effect” on a relevant outcome based on a “medium to large” extent of evidence, with no reporting of a “negative effect” or “potentially negative effect” on a relevant outcome; or

(iii) A single experimental study reviewed and reported by the WWC using version 2.1, 3.0, 4.0, or 4.1 of the WWC Handbooks, or otherwise assessed by the Department using version 4.1 of the WWC Handbooks, as appropriate, and that—

(A) Meets WWC standards without reservations;

(B) Includes at least one statistically significant and positive (i.e., favorable) effect on a relevant outcome;

(C) Includes no overriding statistically significant and negative effects on relevant outcomes reported in the study or in a corresponding WWC intervention report prepared under version 2.1, 3.0, 4.0, or 4.1 of the WWC Handbooks; and

(D) Is based on a sample from more than one site (e.g., State, county, city, school district, or postsecondary campus) and includes at least 350 students or other individuals across sites. Multiple studies of the same project component that each meet requirements in paragraphs (iii)(A), (B), and (C) of this definition may together satisfy the requirement in this paragraph (iii)(D). (34 CFR 77.1)

What Works Clearinghouse (WWC) Handbooks (WWC Handbooks) means the standards and procedures set forth in the WWC Standards Handbook, Versions 4.0 or 4.1, and WWC Procedures Handbook, Versions 4.0 or 4.1, or in the WWC Procedures and Standards Handbook, Version 3.0 or Version 2.1 (all incorporated by reference, see § 77.2). Study findings eligible for review under WWC standards can meet WWC standards without reservations, meet WWC standards with reservations, or not meet WWC standards. WWC practice guides and intervention reports include findings from systematic reviews of evidence as described in the WWC Handbooks documentation. (34 CFR 77.1)

Program Authority: 20 U.S.C. 6861.

Note: Projects will be awarded and operated in a manner consistent with the nondiscrimination requirements contained in Federal civil rights laws.

Applicable Regulations: (a) The Education Department General Administrative Regulations in 34 CFR parts 75, 77, 79, 81, 82, 84, 86, 97, 98, and 99. (b) The Office of Management and Budget Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement) in 2 CFR part 180, as adopted and amended as regulations of the Department in 2 CFR part 3485. (c) The Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards in 2 CFR part 200, as

adopted and amended as regulations of the Department in 2 CFR part 3474. (d) The Supplemental Priorities.

Note: The regulations in 34 CFR part 86 apply to IHEs only.

II. Award Information

Type of Award: Discretionary grants.
Estimated Available Funds:

\$25,500,000.

Contingent upon the availability of funds and the quality of applications, we may make additional awards in FY 2022 or a subsequent fiscal year from the list of unfunded applications from this competition.

Estimated Range of Awards:

\$350,000–600,000.

Estimated Average Size of Awards:

\$464,000.

Maximum Award: \$600,000 per year.

Estimated Number of Awards: 42.

Note: The Department is not bound by any estimates in this notice.

Project Period: 60 months.

III. Eligibility Information

1. *Eligible Applicants:* Entities eligible to apply for NPD grants are IHEs, or public or private entities with relevant experience and capacity, in consortia with LEAs or SEAs.

To maximize student population needs and geographic diversity, the number of awards per single entity will be limited to one per DUNS number.

2. a. *Cost Sharing or Matching:* This program does not require cost sharing or matching.

b. *Indirect Cost Rate Information:* This program uses a training indirect cost rate. This limits indirect cost reimbursement to an entity’s actual indirect costs, as determined in its negotiated indirect cost rate agreement, or eight percent of a modified total direct cost base, whichever amount is less. For more information regarding training indirect cost rates, see 34 CFR 75.562. For more information regarding indirect costs, or to obtain a negotiated indirect cost rate, please see www2.ed.gov/about/offices/list/ocfo/intro.html.

c. *Administrative Cost Limitation:* This program does not include any program-specific limitation on administrative expenses. All administrative expenses must be reasonable and necessary and conform to Cost Principles described in 2 CFR part 200 subpart E of the Uniform Guidance.

IV. Application and Submission Information

1. *Application Submission Instructions:* Applicants are required to follow the Common Instructions for

Applicants to Department of Education Discretionary Grant Programs, published in the **Federal Register** on February 13, 2019 (84 FR 3768) and available at www.govinfo.gov/content/pkg/FR-2019-02-13/pdf/2019-02206.pdf, which contain requirements and information on how to submit an application.

2. *Submission of Proprietary Information*: Given the types of projects that may be proposed in applications for the NPD competition, your application may include business information that you consider proprietary. In 34 CFR 5.11 we define “business information” and describe the process we use in determining whether any of that information is proprietary and, thus, protected from disclosure under Exemption 4 of the Freedom of Information Act (5 U.S.C. 552, as amended).

Consistent with the process followed in the prior NPD competitions, we may post the project narrative section of funded NPD applications on the Department’s website so you may wish to request confidentiality of business information. Identifying proprietary information in the submitted application will help facilitate this public disclosure process.

Consistent with Executive Order 12600, please designate in your application any information that you believe is exempt from disclosure under Exemption 4. In the appropriate Appendix section of your application, under “Other Attachments Form,” please list the page number or numbers on which we can find this information. For additional information please see 34 CFR 5.11(c).

3. *Intergovernmental Review*: This competition is subject to Executive Order 12372 and the regulations in 34 CFR part 79. Information about Intergovernmental Review of Federal Programs under Executive Order 12372 is in the application package for this competition.

4. *Funding Restrictions*: We reference regulations outlining funding restrictions in the *Applicable Regulations* section of this notice.

5. *Recommended Page Limit*: The application narrative is where you, the applicant, address the selection criteria that reviewers use to evaluate your application.

We recommend that you (1) limit the application narrative to no more than 35 pages and (2) use the following standards:

- A “page” is 8.5’ x 11’, on one side only, with 1’ margins at the top, bottom, and both sides.

- Double space (no more than three lines per vertical inch) all text in the application narrative, including titles, headings, footnotes, quotations, references, and captions.

- Use a font that is either 12 point or larger or no smaller than 10 pitch (characters per inch).

- Use one of the following fonts: Times New Roman, Courier, Courier New, or Arial.

The recommended page limit for the application does not apply to the cover sheet; the budget section, including the narrative budget justification; the assurances and certifications; or the one-page abstract, the bibliography, or the letters of support of the application. However, the recommended page limit does apply to the entire narrative section of the application. An application will not be disqualified if it exceeds the recommended page limit.

6. *Notice of Intent to Apply*: The Department will be able to review grant applications more efficiently if we know the approximate number of applicants that intend to apply. Therefore, we strongly encourage each potential applicant to notify us of their intent to submit an application. To do so, please email the program contact person listed under **FOR FURTHER INFORMATION CONTACT** with the subject line “Intent to Apply,” and include the applicant’s name and a contact person’s name and email address. Applicants that do not submit a notice of intent to apply may still apply for funding; applicants that do submit a notice of intent to apply are not bound to apply or bound by the information provided.

V. Application Review Information

1. *Selection Criteria*: The selection criteria for this competition are from section 34 CFR 75.210. The maximum score for all of these criteria is 100 points (not including competitive preference priority points). The maximum score for each criterion is indicated in parentheses.

(a) *Quality of the project design*. (up to 40 points)

The Secretary considers the quality of the design of the proposed project. In determining the quality of the design of the proposed project, the Secretary considers the following factors:

(1) The extent to which the goals, objectives, and outcomes to be achieved by the proposed project are clearly specified and measurable.

(2) The extent to which the design for implementing and evaluating the proposed project will result in information to guide possible replication of project activities or strategies, including information about

the effectiveness of the approach or strategies employed by the project.

(3) The extent to which the proposed project demonstrates a rationale (as defined in this notice).

(b) *Quality of project personnel*. (up to 10 points)

The Secretary considers the quality of the personnel who will carry out the proposed project. In determining the quality of project personnel, the Secretary considers the following factors:

(1) The extent to which the applicant encourages applications for employment from persons who are members of groups that have traditionally been underrepresented based on race, color, national origin, gender, age, or disability.

(2) The qualifications, including relevant training and experience, of the project director or principal investigator.

(3) The qualifications, including relevant training and experience, of key project personnel.

(c) *Quality of the management plan*. (up to 25 points)

The Secretary considers the quality of the management plan for the proposed project. In determining the quality of the management plan for the proposed project, the Secretary considers the following factors:

(1) The adequacy of the management plan to achieve the objectives of the proposed project on time and within budget, including clearly defined responsibilities, timelines, and milestones for accomplishing project tasks.

(2) The extent to which the time commitments of the project director and principal investigator and other key project personnel are appropriate and adequate to meet the objectives of the proposed project.

(d) *Adequacy of resources*. (up to 5 points)

The Secretary considers the adequacy of resources for the proposed project. In determining the adequacy of resources for the proposed project, the Secretary considers the following factors:

(1) The extent to which the costs are reasonable in relation to the objectives, design, and potential significance of the proposed project.

(2) The extent to which the costs are reasonable in relation to the number of persons to be served and to the anticipated results and benefits.

(e) *Quality of the project evaluation*. (up to 20 points)

The Secretary considers the quality of the evaluation to be conducted of the proposed project. In determining the quality of the evaluation, the Secretary considers the following factors:

(1) The extent to which the methods of evaluation are thorough, feasible, and appropriate to the goals, objectives, and outcomes of the proposed project.

(2) The extent to which the methods of evaluation will, if well implemented, produce evidence about the project's effectiveness that would meet the What Works Clearinghouse standards with or without reservations as described in the What Works Clearinghouse Handbook (as defined in this notice).

(3) The extent to which the methods of evaluation will provide performance feedback and permit periodic assessment of progress toward achieving intended outcomes.

(4) The extent to which the methods of evaluation will provide valid and reliable performance data on relevant outcomes.

Note: The following are technical assistance resources on evaluation: (1) WWC Procedures and Standards Handbook: <http://ies.ed.gov/ncee/wwc/references/iddocviewer/doc.aspx?docid=19&tocid=1>; and (2) IES/NCEE Technical Methods papers: http://ies.ed.gov/ncee/tech_methods.

In addition, we invite applicants to view two webinar recordings that were hosted by the Institute of Education Sciences. The first webinar addresses strategies for designing and executing well-designed quasi-experimental design studies. This webinar is available at: <http://ies.ed.gov/ncee/wwc/Multimedia.aspx?sid=23>. The second webinar focuses on more rigorous evaluation designees, including strategies for designing and executing randomized controlled trials. This webinar is available at: <http://ies.ed.gov/ncee/wwc/Multimedia.aspx?sid=18>.

2. Review and Selection Process: The Department will screen applications that are submitted for NPD grants in accordance with the requirements in this notice and determine which applications meet the eligibility and other requirements. Peer reviewers will review all eligible applications for NPD grants that are submitted by the established deadline.

Applicants should note, however, that we may screen for eligibility at multiple points during the competition process, including before and after peer review; applicants that are determined to be ineligible will not receive a grant award regardless of peer reviewer scores or comments. If we determine that an application does not meet an NPD requirement, the application will not be considered for funding.

For NPD grant applications, the Department intends to conduct a two-part review process to review and score all eligible applications. Content

reviewers will review and score all eligible applications on the following selection criteria: (a) Quality of the project design; (b) Quality of project personnel; (c) Quality of the management plan; and (d) Adequacy of resources. These reviewers will also review and score Competitive Preference Priority 2. Peer reviewers with evaluation expertise will review and score selection criterion (e) Quality of the project evaluation. The Department will review and score the Competitive Preference Priority 1 relying on expertise from the Institute of Education Sciences.

We remind potential applicants that in reviewing applications in any discretionary grant competition, the Secretary may consider, under 34 CFR 75.217(d)(3), the past performance of the applicant in carrying out a previous award, such as the applicant's use of funds, achievement of project objectives, and compliance with grant conditions. The Secretary may also consider whether the applicant failed to submit a timely performance report or submitted a report of unacceptable quality.

In addition, in making a competitive grant award, the Secretary requires various assurances including those applicable to Federal civil rights laws that prohibit discrimination in programs or activities receiving Federal financial assistance from the Department (34 CFR 100.4, 104.5, 106.4, 108.8, and 110.23).

3. Risk Assessment and Specific Conditions: Consistent with 2 CFR 200.205, before awarding grants under this program the Department conducts a review of the risks posed by applicants. Under 2 CFR 3474.10, the Secretary may impose specific conditions and, in appropriate circumstances, high-risk conditions on a grant if the applicant or grantee is not financially stable; has a history of unsatisfactory performance; has a financial or other management system that does not meet the standards in 2 CFR part 200, subpart D; has not fulfilled the conditions of a prior grant; or is otherwise not responsible.

4. Integrity and Performance System: If you are selected under this competition to receive an award that over the course of the project period may exceed the simplified acquisition threshold (currently \$250,000), under 2 CFR 200.206(a)(2) we must make a judgment about your integrity, business ethics, and record of performance under Federal awards—that is, the risk posed by you as an applicant—before we make an award. In doing so, we must consider any information about you that is in the integrity and performance system (currently referred to as the Federal

Awardee Performance and Integrity Information System (FAPIIS)), accessible through the System for Award Management. You may review and comment on any information about yourself that a Federal agency previously entered and that is currently in FAPIIS.

Please note that, if the total value of your currently active grants, cooperative agreements, and procurement contracts from the Federal Government exceeds \$10,000,000, the reporting requirements in 2 CFR part 200, Appendix XII, require you to report certain integrity information to FAPIIS semiannually. Please review the requirements in 2 CFR part 200, Appendix XII, if this grant plus all the other Federal funds you receive exceed \$10,000,000.

5. In General: In accordance with the Office of Management and Budget's guidance located at 2 CFR part 200, all applicable Federal laws, and relevant Executive guidance, the Department will review and consider applications for funding pursuant to this notice inviting applications in accordance with—

(a) Selecting recipients most likely to be successful in delivering results based on the program objectives through an objective process of evaluating Federal award applications (2 CFR 200.205);

(b) Prohibiting the purchase of certain telecommunication and video surveillance services or equipment in alignment with section 889 of the National Defense Authorization Act of 2019 (Pub. L. 115—232) (2 CFR 200.216);

(c) Providing a preference, to the extent permitted by law, to maximize use of goods, products, and materials produced in the United States (2 CFR 200.322); and

(d) Terminating agreements in whole or in part to the greatest extent authorized by law if an award no longer effectuates the program goals or agency priorities (2 CFR 200.340).

VI. Award Administration Information

1. Award Notices: If your application is successful, we notify your U.S. Representative and U.S. Senators and send you a Grant Award Notification (GAN); or we may send you an email containing a link to access an electronic version of your GAN. We may notify you informally, also.

If your application is not evaluated or not selected for funding, we notify you.

2. Administrative and National Policy Requirements: We identify administrative and national policy requirements in the application package and reference these and other

requirements in the *Applicable Regulations* section of this notice.

We reference the regulations outlining the terms and conditions of an award in the *Applicable Regulations* section of this notice and include these and other specific conditions in the GAN. The GAN also incorporates your approved application as part of your binding commitments under the grant.

3. *Open Licensing Requirements:*

Unless an exception applies, if you are awarded a grant under this competition, you will be required to openly license to the public grant deliverables created in whole, or in part, with Department grant funds. When the deliverable consists of modifications to pre-existing works, the license extends only to those modifications that can be separately identified and only to the extent that open licensing is permitted under the terms of any licenses or other legal restrictions on the use of pre-existing works. Additionally, a grantee or subgrantee that is awarded competitive grant funds must have a plan to disseminate these public grant deliverables. This dissemination plan can be developed and submitted after your application has been reviewed and selected for funding. For additional information on the open licensing requirements please refer to 2 CFR 3474.20.

4. *Reporting:* (a) If you apply for a grant under this competition, you must ensure that you have in place the necessary processes and systems to comply with the reporting requirements in 2 CFR part 170 should you receive funding under the competition. This does not apply if you have an exception under 2 CFR 170.110(b).

(b) At the end of your project period, you must submit a final performance report, including financial information, as directed by the Secretary. If you receive a multiyear award, you must submit an annual performance report that provides the most current performance and financial expenditure information as directed by the Secretary under 34 CFR 75.118. The Secretary may also require more frequent performance reports under 34 CFR 75.720(c). For specific requirements on reporting, please go to <http://www.ed.gov/fund/grant/apply/apforms.html>.

(c) The Secretary may provide a grantee with additional funding for data collection, analysis, and reporting. In this case the Secretary establishes a data collection period.

5. *Performance Measures:* Under the Government Performance and Results Act (GPRA), Federal departments and agencies must clearly describe the goals

and objectives of programs, identify resources and actions needed to accomplish goals and objectives, develop a means of measuring progress made, and regularly report on achievement.

(a) *Measures.* The Department has developed the following GPRA performance measures for evaluating the overall effectiveness of the NPD program:

Measure 1: The percentage of project-specific annual goals the program met.

Measure 2: The number of pre-service program participants enrolled annually.

Measure 3: The unduplicated number of in-service program participants served annually.

Measure 4: Under measures 2 and 3, the number of participants who are making progress toward becoming State certified, licensed, or endorsed in EL instruction and the number of participants who have become State certified, licensed, or endorsed by the end of the five-year project period.

(b) *Baseline data.* Applicants must provide baseline (as defined in this notice) data for each of the project performance measures listed in (a) and explain how each proposed baseline data is related to program outcomes; or, if the applicant has determined that there are no established baseline data for a particular performance measure, explain why there is no established baseline and explain how and when, during the project period, the applicant will establish a baseline for the performance measure.

(c) *Performance measure targets.* In addition, the applicant must propose in its application annual targets for the measures listed in paragraph (a). Applications must also include the following information as directed under 34 CFR 75.110(b):

(1) Why each proposed performance target is ambitious (as defined in this notice) yet achievable compared to the baseline for the performance measure.

(2) The data collection and reporting methods the applicant would use and why those methods are likely to yield reliable, valid, and meaningful performance data; and

(3) The applicant's capacity to collect and report reliable, valid, and meaningful performance data, as evidenced by high-quality data collection, analysis, and reporting in other projects or research.

Note: If the applicant does not have experience with collection and reporting of performance data through other projects or research, the applicant should provide other evidence of capacity to successfully carry out data

collection and reporting for its proposed project.

(d) *Performance Reports.* All grantees must submit an annual performance report and final performance report with information that is responsive to these performance measures. The Department will consider this data in making annual continuation awards.

(e) *Department Evaluations.*

Consistent with 34 CFR 75.591, grantees funded under this program must comply with the requirements of any evaluation of the program conducted by the Department or an evaluator selected by the Department.

6. *Continuation Awards:* In making a continuation award under 34 CFR 75.253, the Secretary considers, among other things: Whether a grantee has made substantial progress in achieving the goals and objectives of the project; whether the grantee has expended funds in a manner that is consistent with its approved application and budget; and, if the Secretary has established performance measurement requirements, the performance targets in the grantee's approved application.

In making a continuation award, the Secretary also considers whether the grantee is operating in compliance with the assurances in its approved application, including those applicable to Federal civil rights laws that prohibit discrimination in programs or activities receiving Federal financial assistance from the Department (34 CFR 100.4, 104.5, 106.4, 108.8, and 110.23).

VII. Other Information

Accessible Format: On request to the program contact person listed under **FOR FURTHER INFORMATION CONTACT**, individuals with disabilities can obtain this document and a copy of the application package 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. At this site you can view this document, as well as all other documents of this 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. Specifically, through the advanced search feature at this site, you can limit your search to documents published by the Department.

Supreet Anand,

Acting Director, Office of English Language Acquisition.

[FR Doc. 2021-03474 Filed 2-19-21; 8:45 am]

BILLING CODE 4000-01-P

DEPARTMENT OF ENERGY

DOE/NSF Nuclear Science Advisory Committee; Meeting

AGENCY: Office of Science, Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: This notice announces a meeting of the DOE/NSF Nuclear Science Advisory Committee (NSAC). The Federal Advisory Committee Act requires that public notice of these meetings be announced in the **Federal Register**.

DATES: Thursday, March 18, 2021; 10:00 a.m.–4:30 p.m. (EST).

ADDRESSES: This meeting is open to the public. This meeting will be held digitally via

Zoom. Information to participate can be found on the website closer to the meeting date at: <https://science.osti.gov/np/nsac/meetings>.

FOR FURTHER INFORMATION CONTACT: Brenda L. May, U.S. Department of Energy; SC-26/Germantown Building, 1000 Independence Avenue SW, Washington, DC 20585-1290; Telephone: (301) 903-0536 or email: brenda.may@science.doe.gov.

SUPPLEMENTARY INFORMATION:

Purpose of the Board: The purpose of the Board is to provide advice and guidance on a continuing basis to the Department of Energy and the National Science Foundation on scientific priorities within the field of basic nuclear science research.

Tentative Agenda

Thursday, March 18, 2021

- Call to Order, Introductions, Review of the Agenda
- Perspectives from Department of Energy and National Science Foundation
- Update from the Department of Energy and National Science Foundation's Nuclear Physics Offices
- Presentation of the Mo-99 Charge
- DOE Office of Science Graduate Student Research (SCGSR) Program Presentation

- Artificial Intelligence for Nuclear Physics Presentation
- NSAC Business/Discussions

Public Participation: The meeting is open to the public. A webcast of this meeting will be available. Please check the website below for updates and information on how to view the meeting. If you would like to file a written statement with the Committee, you may do so either before or after the meeting. If you would like to make oral statements regarding any of these items on the agenda, you should contact Brenda L. May at Brenda.May@science.doe.gov. You must make your request for an oral statement at least five business days before the meeting. Reasonable provision will be made to include the scheduled oral statements on the agenda. The Chairperson of the Committee will conduct the meeting to facilitate the orderly conduct of business. Public comment will follow the 10-minute rule.

The minutes of the meeting will be available for review on the U.S. Department of Energy's Office of Nuclear Physics website at <https://science.osti.gov/np/nsac/meetings>.

Signed in Washington, DC, on February 16, 2021.

LaTanya R. Butler,

Deputy Committee Management Officer.

[FR Doc. 2021-03432 Filed 2-19-21; 8:45 am]

BILLING CODE 6450-01-P

DEPARTMENT OF ENERGY

Environmental Management Site-Specific Advisory Board, Savannah River Site

AGENCY: Office of Environmental Management, Department of Energy.

ACTION: Notice of open virtual meeting.

SUMMARY: This notice announces an online virtual meeting of the Environmental Management Site-Specific Advisory Board (EM SSAB), Savannah River Site. The Federal Advisory Committee Act requires that public notice of this online virtual meeting be announced in the **Federal Register**.

DATES: Monday, March 22, 2021; 1:00 p.m.–3:30 p.m.

ADDRESSES: Online Virtual Meeting. To attend, please send an email to: srscitizensadvisoryboard@gmail.com by no later than 4:00 p.m. (ET) on Thursday, March 18, 2021.

To Submit Public Comments: Public comments will be accepted via email prior to and after the meeting. Comments received by no later than

4:00 p.m. (ET) on Thursday, March 18, 2021, will be read aloud during the virtual meeting. Comments will also be accepted after the meeting, by no later than 4:00 p.m. (ET) on Monday, March 29, 2021. Please submit comments to srscitizensadvisoryboard@gmail.com.

FOR FURTHER INFORMATION CONTACT:

Amy Boyette, Office of External Affairs, U.S. Department of Energy, Savannah River Operations Office, P.O. Box A, Aiken, SC 29802; Phone: (803) 952-6120, email: srscitizensadvisoryboard@gmail.com.

SUPPLEMENTARY INFORMATION:

Purpose of the Board: The purpose of the Board is to make recommendations to DOE-EM and site management in the areas of environmental restoration, waste management, and related activities.

Tentative Agenda:

- Meeting Rules and Agenda Review
- Opening and Chair Update
- Agency Updates
- Break
- Committee Round Robin:
 - Facilities Disposition & Site Remediation Committee
 - Nuclear Materials Committee
 - Strategic & Legacy Management Committee
 - Waste Management Committee
 - Administrative & Outreach Committee
- Board Discussion on Site Priorities Letter to DOE
- Reading of Public Comments
- Voting: Site Priorities Letter to DOE
- Adjourn

Public Participation: The online virtual meeting is open to the public. Written statements may be filed with the Board either before or after the meeting as there will not be opportunities for live public comment during this online virtual meeting. The Deputy Designated Federal Officer is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Individuals wishing to submit public comments should email them as directed above.

Minutes: Minutes will be available by writing or calling Amy Boyette at the address or telephone number listed above. Minutes will also be available at the following website: <https://cab.srs.gov/srs-cab.html>.

Signed in Washington, DC, on February 16, 2021.

LaTanya Butler,

Deputy Committee Management Officer.

[FR Doc. 2021-03506 Filed 2-19-21; 8:45 am]

BILLING CODE 6450-01-P

DEPARTMENT OF ENERGY**Environmental Management Site-Specific Advisory Board, Paducah**

AGENCY: Office of Environmental Management, Department of Energy.

ACTION: Notice of open virtual meeting.

SUMMARY: This notice announces an online virtual meeting of the Environmental Management Site-Specific Advisory Board (EM SSAB), Paducah. The Federal Advisory Committee Act requires that public notice of this online virtual meeting be announced in the **Federal Register**.

DATES: Thursday, March 18, 2021; 5:30 p.m.–7:00 p.m.

ADDRESSES: Online Virtual Meeting. To attend, please send an email to the Federal Coordinator, Robert Smith, at robert.smith@pppo.gov by no later than 5:00 p.m. CST on Monday, March 15, 2021.

To Submit Public Comments: Public comments will be accepted via email prior to and after the meeting. Comments received by no later than 5:00 p.m. CST on Monday, March 15, 2021, will be read aloud during the virtual meeting. Comments will also be accepted after the meeting, by no later than 5:00 p.m. CST on Friday, April 2, 2021. Please submit comments to robert.smith@pppo.gov.

FOR FURTHER INFORMATION CONTACT: Robert Smith, Federal Coordinator, by Phone: (270) 441–6821 or Email: robert.smith@pppo.gov.

SUPPLEMENTARY INFORMATION:

Purpose of the Board: The purpose of the Board is to make recommendations to DOE–EM and site management in the areas of environmental restoration, waste management, and related activities.

Tentative Agenda:

- Call to Order, Introductions, Review of Agenda
- Administrative Issues
- Public Comments (15 minutes)
- Adjourn

Public Participation: The online virtual meeting is open to the public. Written statements may be filed with the Board either before or after the meeting as there will not be opportunities for live public comment during this online virtual meeting. The Deputy Designated Federal Officer is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Individuals wishing to submit public comments should email them as directed above.

Minutes: Minutes will be available by writing or calling Robert Smith, Federal

Coordinator, U.S. Department of Energy, 5507 Hobbs Rd., Kevil, KY 42053; Phone: (270) 441–6821. Minutes will also be available at the following website: <http://www.energy.gov/pppo/listings/meeting-materials>.

Signed in Washington, DC, on February 16, 2021.

LaTanya Butler,

Deputy Committee Management Officer.

[FR Doc. 2021–03436 Filed 2–19–21; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY**Energy Information Administration****Agency Information Collection Proposed Extension**

AGENCY: U.S. Energy Information Administration (EIA), Department of Energy (DOE).

ACTION: Notice and request for comments.

SUMMARY: EIA invites public comment on the proposed three year extension, without changes, to the Form NWPA–830G *Appendix G-Standard Remittance Advice for Payment of Fees*, including Annex A to Appendix G, as required by the Paperwork Reduction Act of 1995. Form NWPA–830G is part of the Standard Contract for Disposal of Spent Nuclear Fuel and/or High-Level Radioactive Waste. Generators and owners of spent nuclear fuel and high-level radioactive waste of domestic origin paid fees into the nuclear waste fund based on net electricity generated and sold as defined in the Standard Contract.

DATES: EIA must receive all comments on this proposed information collection no later than April 23, 2021. If you anticipate any difficulties in submitting your comments by the deadline, contact the person listed in the **ADDRESSES** section of this notice as soon as possible.

ADDRESSES: Submit comments electronically to Katherine Antonio at Katherine.Antonio@eia.gov, U.S. Energy Information Administration, EI–31, 1000 Independence Avenue SW, Washington, DC 20585.

FOR FURTHER INFORMATION CONTACT: If you need additional information, contact Katherine Antonio, U.S. Energy Information Administration, telephone (202) 586–7277, or by email at Katherine.Antonio@eia.gov. The forms and instructions are available on EIA's website at <http://www.eia.gov/survey/#nwpa-830g>.

SUPPLEMENTARY INFORMATION: This information collection request contains:

- (1) *OMB No.:* 1901–0260;
- (2) *Information Collection Request Title:* Standard Contract for Disposal of Spent Nuclear Fuel and/or High-Level Radioactive Waste;
- (3) *Type of Request:* Three year extension without change;
- (4) *Purpose:* The surveys included in the Standard Contract for Disposal of Spent Nuclear Fuel and/or High-Level Radioactive Waste collect information on energy resource reserves, production, demand, technology, and related economic and statistical information.

The Federal Energy Administration Act of 1974 (15 U.S.C. 761 *et seq.*) and the DOE Organization Act (42 U.S.C. 7101 *et seq.*) require EIA to carry out a centralized, comprehensive, and unified energy information program. This program collects, evaluates, assembles, analyzes, and disseminates information on energy resource reserves, production, demand, technology, and related economic and statistical information. This information is used to assess the adequacy of energy resources to meet near and longer term domestic demands.

As part of its effort to comply with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), EIA provides the general public and other federal agencies with opportunities to comment on collections of energy information conducted by or in conjunction with EIA. Also, EIA will later seek approval for this collection by OMB under Section 3507(a) of the Paperwork Reduction Act of 1995.

The Nuclear Waste Policy Act of 1982 (42 U.S.C. 10101 *et seq.*) required that DOE enter into Standard Contracts with all generators or owners of spent nuclear fuel and high-level radioactive waste of domestic origin. Form NWPA–830G *Appendix G-Standard Remittance Advice for Payment of Fees*, including Annex A to Appendix G, is an Appendix to this Standard Contract. Appendix G and Annex A to Appendix G are commonly referred to as *Remittance Advice (RA)* forms. RA forms must be submitted quarterly by generators and owners of spent nuclear fuel and high-level radioactive waste of domestic origin who signed the Standard Contract. Appendix G is designed to serve as the source document for entries into DOE accounting records to transmit data to DOE concerning payment of fees into the Nuclear Waste Fund for spent nuclear fuel and high-level waste disposal. Annex A to Appendix G is used to provide data on the amount of

net electricity generated and sold, upon which these fees are based.

Please refer to the proposed forms and instructions for more information about the purpose, who must report, when to report, where to submit, the elements to be reported, detailed instructions, provisions for confidentiality, and uses (including possible non-statistical uses) of the information. For instructions on obtaining materials, see the **FOR FURTHER INFORMATION CONTACT** section;

(5) *Annual Estimated Number of Respondents*: 97;

(6) *Annual Estimated Number of Total Responses*: 388;

(7) *Annual Estimated Number of Burden Hours*: 1,940;

(8) *Annual Estimated Reporting and Recordkeeping Cost Burden*: \$158,401 (1,940 estimated number of burden hours times \$81.65 per hour current average loaded wage rate). EIA estimates that respondents will have no additional costs associated with the surveys other than the burden hours and the maintenance of the information during the normal course of business.

Comments are invited on whether or not: (a) The proposed collection of information is necessary for the proper performance of agency functions, including whether the information will have a practical utility; (b) EIA's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used, is accurate; (c) EIA can improve the quality, utility, and clarity of the information it will collect; and (d) EIA can minimize the burden of the collection of information on respondents, such as automated collection techniques or other forms of information technology.

Statutory Authority: Section 13(b) of the Federal Energy Administration Act of 1974, Pub. L. 93–275, codified as (15 U.S.C. 772(b) *et seq.*); the DOE Organization Act of 1977, Pub. L. 95–91, codified as (42 U.S.C. 7101 *et seq.*); and Nuclear Waste Policy Act of 1982 (42 U.S.C. 10101 *et seq.*).

Signed in Washington, DC, on February 16, 2021.

Samson A. Adeshiyani,

Director, Office of Statistical Methods and Research, U.S. Energy Information Administration.

[FR Doc. 2021–03450 Filed 2–19–21; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER21–1129–000]

Polaris Power Services 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 Polaris Power Services 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 March 8, 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://ferc.gov>) using the "eLibrary" link. Enter the docket number excluding the

last three digits in the docket number field to access the document. At this time, the Commission has suspended access to the Commission's Public Reference Room, due to the proclamation declaring a National Emergency concerning the Novel Coronavirus Disease (COVID–19), issued by the President on March 13, 2020. For assistance, contact the Federal Energy Regulatory Commission at FERCOnlineSupport@ferc.gov or call toll-free, (886) 208–3676 or TTY, (202) 502–8659.

Dated: February 16, 2021.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2021–03497 Filed 2–19–21; 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 corporate filings:

Docket Numbers: EC21–53–000.

Applicants: Big Sky Wind, LLC, Vitol Wind I LLC, Vitol Holding B.V.

Description: Application for Authorization Under Section 203 of the Federal Power Act of Big Sky Wind, LLC, et al.

Filed Date: 2/12/21.

Accession Number: 20210212–5280.

Comments Due: 5 p.m. ET 3/5/21.

Take notice that the Commission received the following exempt wholesale generator filings:

Docket Numbers: EG21–89–000.

Applicants: Chisholm Grid, LLC.

Description: Notice of Self-Certification of Exempt Wholesale Generation Status of Chisholm Grid, LLC.

Filed Date: 2/12/21.

Accession Number: 20210212–5260.

Comments Due: 5 p.m. ET 3/5/21.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER10–2566–013; ER13–2322–009; ER15–190–017; ER18–1343–009; ER19–1819–004; ER19–1820–004; ER19–1821–004.

Applicants: Duke Energy Carolinas, LLC, Broad River Solar, LLC, Carolina Solar Power, LLC, Speedway Solar NC, LLC, Stony Knoll Solar, LLC, Duke Energy Progress, LLC, Duke Energy Renewable Services, LLC.

Description: Notice of Change in Status of the Duke MBR Sellers under ER10–2566, et al.

Filed Date: 2/11/21.
Accession Number: 20210211–5194.
Comments Due: 5 p.m. ET 3/4/21.
Docket Numbers: ER19–2722–003.
Applicants: PJM Interconnection, L.L.C.

Description: Compliance filing: Second Fast-Start Compliance Docket No. EL18–34 to be effective 12/31/9998.

Filed Date: 2/16/21.
Accession Number: 20210216–5218.
Comments Due: 5 p.m. ET 3/9/21.
Docket Numbers: ER20–1085–001.
Applicants: Virginia Electric and Power Company, PJM Interconnection, L.L.C.

Description: Compliance filing: Dominion submits Deficiency Filing in ER20–1085–000 to be effective 1/27/2020.

Filed Date: 2/16/21.
Accession Number: 20210216–5244.
Comments Due: 5 p.m. ET 3/9/21.
Docket Numbers: ER20–1734–001.
Applicants: Alabama Power Company.

Description: Compliance filing: Order No. 864 OATT Deficiency Response Filing to be effective N/A.

Filed Date: 2/16/21.
Accession Number: 20210216–5015.
Comments Due: 5 p.m. ET 3/9/21.
Docket Numbers: ER20–1735–001.
Applicants: Alabama Power Company.

Description: Compliance filing: Order No. 864 TFCAT & Related Gulf TFCAT Service Agreements Deficiency Response to be effective N/A.

Filed Date: 2/16/21.
Accession Number: 20210216–5016.
Comments Due: 5 p.m. ET 3/9/21.
Docket Numbers: ER21–1139–000.
Applicants: Southwestern Electric Power Company.

Description: § 205(d) Rate Filing: SWEPCO–ETEC Deep East Loop Contracting Services Agreement—Amended to be effective 2/1/2021.

Filed Date: 2/16/21.
Accession Number: 20210216–5011.
Comments Due: 5 p.m. ET 3/9/21.
Docket Numbers: ER21–1140–000.
Applicants: Public Service Company of Colorado.

Description: § 205(d) Rate Filing: 2021–02–xx Western EIM Energy Imbalance Subentity Agrmt-0.0.0 to be effective 1/20/2021.

Filed Date: 2/16/21.
Accession Number: 20210216–5014.
Comments Due: 5 p.m. ET 3/9/21.
Docket Numbers: ER21–1141–000.
Applicants: Hog Creek Wind Project, LLC.

Description: § 205(d) Rate Filing: Reactive Power Compensation Filing to be effective 2/17/2021.

Filed Date: 2/16/21.
Accession Number: 20210216–5019.
Comments Due: 5 p.m. ET 3/9/21.
Docket Numbers: ER21–1142–000.
Applicants: NedPower Mount Storm, LLC.

Description: Request for Limited Waiver and Expedited Consideration of NedPower Mount Storm LLC.

Filed Date: 2/12/21.
Accession Number: 20210212–5265.
Comments Due: 5 p.m. ET 3/5/21.
Docket Numbers: ER21–1143–000.
Applicants: Midcontinent Independent System Operator, Inc.

Description: § 205(d) Rate Filing: 2021–02–16_SA 3164 LA3 West Baton Rouge-Entergy Louisiana 1st Rev GIA (J683) to be effective 2/9/2021.

Filed Date: 2/16/21.
Accession Number: 20210216–5044.
Comments Due: 5 p.m. ET 3/9/21.
Docket Numbers: ER21–1144–000.
Applicants: Midcontinent Independent System Operator, Inc.

Description: § 205(d) Rate Filing: 2021–02–16_SA 3181 Glaciers Edge-MidAmerican 2nd Rev GIA (J506) to be effective 2/9/2021.

Filed Date: 2/16/21.
Accession Number: 20210216–5053.
Comments Due: 5 p.m. ET 3/9/21.
Docket Numbers: ER21–1145–000.
Applicants: Midcontinent Independent System Operator, Inc.

Description: § 205(d) Rate Filing: 2021–02–16_SA 3365 METC-Calhoun Solar Energy 1st Rev GIA (J758) to be effective 2/3/2021.

Filed Date: 2/16/21.
Accession Number: 20210216–5073.
Comments Due: 5 p.m. ET 3/9/21.
Docket Numbers: ER21–1147–000.
Applicants: Public Service Company of New Hampshire.

Description: § 205(d) Rate Filing: Engineering, Design, and Procurement Agreement with NECEC Transmission LLC to be effective 2/16/2021.

Filed Date: 2/16/21.
Accession Number: 20210216–5162.
Comments Due: 5 p.m. ET 3/9/21.
Docket Numbers: ER21–1148–000.
Applicants: NorthWestern Corporation.

Description: § 205(d) Rate Filing: Ministerial Filing to Synchronize Tariff Changes Accepted in Overlapping Dockets to be effective 1/25/2021.

Filed Date: 2/16/21.
Accession Number: 20210216–5171.
Comments Due: 5 p.m. ET 3/9/21.
Docket Numbers: ER21–1149–000.
Applicants: Mobile Energy, LLC.

Description: § 205(d) Rate Filing: Clean-Up Revisions to Market-Based Rate Tariff and Request for Waiver to be effective 2/17/2021.

Filed Date: 2/16/21.
Accession Number: 20210216–5173.
Comments Due: 5 p.m. ET 3/9/21.
Docket Numbers: ER21–1150–000.
Applicants: Midcontinent Independent System Operator, Inc.

Description: § 205(d) Rate Filing: 2020–02–16_Q1 Clean Up Filing to be effective 6/12/2020.

Filed Date: 2/16/21.
Accession Number: 20210216–5185.
Comments Due: 5 p.m. ET 3/9/21.
Docket Numbers: ER21–1151–000.
Applicants: Public Service Company of New Hampshire.

Description: § 205(d) Rate Filing: Related Facilities Agreement with NECEC Transmission LLC to be effective 2/16/2021.

Filed Date: 2/16/21.
Accession Number: 20210216–5186.
Comments Due: 5 p.m. ET 3/9/21.
Docket Numbers: ER21–1152–000.
Applicants: Midcontinent Independent System Operator, Inc.

Description: § 205(d) Rate Filing: 2021–02–16_SA 2985 MidAmerican-MidAmerican 2nd Rev GIA (J499) to be effective 2/3/2021.

Filed Date: 2/16/21.
Accession Number: 20210216–5189.
Comments Due: 5 p.m. ET 3/9/21.
Docket Numbers: ER21–1153–000.
Applicants: PJM Interconnection, L.L.C.

Description: § 205(d) Rate Filing: Amendment to ISA, SA No. 3459; Queue X2–076 (amend) to be effective 11/27/2012.

Filed Date: 2/16/21.
Accession Number: 20210216–5196.
Comments Due: 5 p.m. ET 3/9/21.
Docket Numbers: ER21–1154–000.
Applicants: ISO New England Inc., Fitchburg Gas and Electric Light Company.

Description: Compliance filing: Fitchburg Gas & Electric Co. Docket ER20–2575 Supplemental Order 864 Comp Filing to be effective 1/1/2020.

Filed Date: 2/16/21.
Accession Number: 20210216–5206.
Comments Due: 5 p.m. ET 3/9/21.
Docket Numbers: ER21–1155–000.
Applicants: Southwest Power Pool, Inc.

Description: § 205(d) Rate Filing: Revisions to Modify Section 2.11.1 of Attachment AE to be effective 4/18/2021.

Filed Date: 2/16/21.
Accession Number: 20210216–5216.
Comments Due: 5 p.m. ET 3/9/21.
Docket Numbers: ER21–1156–000.
Applicants: PJM Interconnection, L.L.C.

Description: Tariff Cancellation: Notice of Cancellation of WMPA, SA

No. 5415; Queue No. AD2–215 re: withdrawal to be effective 3/15/2021.

Filed Date: 2/16/21.

Accession Number: 20210216–5236.

Comments Due: 5 p.m. ET 3/9/21.

Docket Numbers: ER21–1157–000.

Applicants: PJM Interconnection, L.L.C.

Description: § 205(d) Rate Filing: Original ISA, SA No. 5958; Queue No. AC1–074 to be effective 1/19/2021.

Filed Date: 2/16/21.

Accession Number: 20210216–5243.

Comments Due: 5 p.m. ET 3/9/21.

Take notice that the Commission received the following electric securities filings:

Docket Numbers: ES21–31–000.

Applicants: Transource Oklahoma, LLC.

Description: Application under Section 204 of the Federal Power Act for Authorization to Issue Securities for Transource Oklahoma, LLC.

Filed Date: 2/16/21.

Accession Number: 20210216–5227.

Comments Due: 5 p.m. ET 3/9/21.

Take notice that the Commission received the following PURPA 210(m)(3) filings:

Docket Numbers: QM21–3–000.

Applicants: Montana-Dakota Utilities Company.

Description: Application of Montana-Dakota Utilities Company to Terminate Mandatory Purchase Obligation under the Public Utility Regulatory Policies Act of 1978.

Filed Date: 2/16/21.

Accession Number: 20210216–5226.

Comments Due: 5 p.m. ET 3/16/21.

The filings are accessible in the Commission's eLibrary system (<https://elibrary.ferc.gov/idmws/search/fercgensearch.asp>) by querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: <http://www.ferc.gov/docs-filing/efiling/filing-req.pdf>. For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: February 16, 2021.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2021–03496 Filed 2–19–21; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings:

Docket Number: PR21–29–000.

Applicants: The East Ohio Gas Company.

Description: Tariff filing per 284.123(b),(e)+(g): Operating Statement of The East Ohio Gas Company 02/09/2021 to be effective 1/6/2021 under PR21–29.

Filed Date: 2/9/2021.

Accession Number: 202102095148.

Comments Due: 5 p.m. ET 3/2/2021.

284.123(g) Protests Due: 5 p.m. ET 4/12/2021.

Docket Number: PR21–30–000.

Applicants: The East Ohio Gas Company.

Description: Tariff filing per 284.123(b),(e): Historical Operating Statements of The East Ohio Gas Company to be effective 9/29/2010 under PR21–30.

Filed Date: 2/10/2021.

Accession Number: 202102105108.

Comments/Protests Due: 5 p.m. ET 3/3/2021.

Docket Numbers: RP21–473–000.

Applicants: Southern Natural Gas Company, L.L.C.

Description: § 4(d) Rate Filing: Fuel Retention Rates—Summer 2021 to be effective 4/1/2021.

Filed Date: 2/11/21.

Accession Number: 20210211–5033.

Comments Due: 5 p.m. ET 2/23/21.

Docket Numbers: RP21–474–000.

Applicants: Elba Express Company, L.L.C.

Description: § 4(d) Rate Filing: Fuel Tracker Filing—2021 to be effective 4/1/2021.

Filed Date: 2/11/21.

Accession Number: 20210211–5047.

Comments Due: 5 p.m. ET 2/23/21.

Docket Numbers: RP21–475–000.

Applicants: Texas Eastern Transmission, LP.

Description: § 4(d) Rate Filing: Negotiated Rates—Nextera Agreements eff 03–01–21 to be effective 3/1/2021.

Filed Date: 2/11/21.

Accession Number: 20210211–5057.

Comments Due: 5 p.m. ET 2/23/21.

Docket Numbers: RP21–476–000.

Applicants: Northern Natural Gas Company.

Description: Northern Natural Gas submits report of the penalty and daily delivery variance charge (DDVC) revenues that have been credited to shippers under RP21–426.

Filed Date: 2/11/21.

Accession Number: 20210211–5076.

Comments Due: 5 p.m. ET 2/23/21.

Docket Numbers: RP21–477–000.

Applicants: Rockies Express Pipeline LLC.

Description: § 4(d) Rate Filing: REX 2021–02–11 Non-Conforming Negotiated Rate Amendment to be effective 2/11/2021.

Filed Date: 2/11/21.

Accession Number: 20210211–5100.

Comments Due: 5 p.m. ET 2/23/21.

Docket Numbers: RP21–478–000.

Applicants: Algonquin Gas Transmission, LLC.

Description: § 4(d) Rate Filing: Non-Conforming Agreement—Northern Utilities 510939 to be effective 2/12/2021.

Filed Date: 2/11/21.

Accession Number: 20210211–5119.

Comments Due: 5 p.m. ET 2/23/21.

Docket Numbers: RP21–479–000.

Applicants: Algonquin Gas Transmission, LLC.

Description: § 4(d) Rate Filing: Negotiated Rate—Northern Utilities 510939 eff 2–12–21 to be effective 2/12/2021.

Filed Date: 2/11/21.

Accession Number: 20210211–5124.

Comments Due: 5 p.m. ET 2/23/21.

Docket Numbers: RP21–480–000.

Applicants: Maritimes & Northeast Pipeline, L.L.C.

Description: § 4(d) Rate Filing: Negotiated Rate—Northern Utilities eff 2–12–21 to be effective 2/12/2021.

Filed Date: 2/11/21.

Accession Number: 20210211–5131.

Comments Due: 5 p.m. ET 2/23/21.

Docket Numbers: RP21–481–000.

Applicants: Cove Point LNG, LP.

Description: Compliance filing Cove Point—February 11, 2021 Service Agreement Termination Notice.

Filed Date: 2/11/21.

Accession Number: 20210211–5153.

Comments Due: 5 p.m. ET 2/23/21.

The filings are accessible in the Commission's eLibrary system (<https://elibrary.ferc.gov/idmws/search/fercgensearch.asp>) by querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211

and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: <http://www.ferc.gov/docs-filing/efiling/filing-req.pdf>. For other information, call (866) 208-3676 (toll free). For TTY, call (202) 502-8659.

Dated: February 16, 2021.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2021-03495 Filed 2-19-21; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2106-075]

Pacific Gas and Electric Company; Notice of Petition for Declaratory Order

Take notice that on February 5, 2021, pursuant to Rule 207 of the Federal Energy Regulatory Commission's Rules of Practice and Procedure, 18 CFR 385.207 (2020), Pacific Gas and Electric Company (PG&E or Petitioner) filed a petition for declaratory order (Petition) requesting that the Commission issue a declaratory order finding that the California State Water Resources Control Board has waived its authority to issue certification for the McCloud Pit-Hydroelectric Project No. 2106 under section 401 of the Clean Water Act, 33 U.S.C. 1341(a)(1), as more fully explained in the Petition.

Any person wishing to comment on PG&E's Petition may do so.¹ The deadline for filing comments is 30 days from the issuance of this notice. The Commission encourages electronic submission of comments in lieu of paper using the "eFiling" link at <http://www.ferc.gov>. Persons unable to file electronically should send comments to the following address: 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

¹ PG&E's request is part of the licensing proceeding in Project No. 2106-059. Thus, any person that intervened in the licensing proceeding is already a party. The filing of the petition in this case does not trigger a new opportunity to intervene.

Wilkins Avenue, Rockville, Maryland 20852. Be sure to reference the project docket number (P-2106-075) with your submission.

In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the internet through the Commission's Home Page (<http://www.ferc.gov>) using the "eLibrary" link. Enter the docket number excluding the last three digits in the docket number field to access the document. At this time, the Commission has suspended access to Commission's Public Reference Room, due to the proclamation declaring a National Emergency concerning the Novel Coronavirus Disease (COVID-19), issued by the President on March 13, 2020. For assistance, contact FERC at FERCOnlineSupport@ferc.gov or call toll-free, (866) 208-3676 or TTY, (202) 502-8659.

Comment Date: 5:00 p.m. Eastern Time on March 8, 2021.

Dated: February 16, 2021.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2021-03498 Filed 2-19-21; 8:45 am]

BILLING CODE 6717-01-P

ENVIRONMENTAL PROTECTION AGENCY

[EPA-HQ-OECA-2020-0438; FRL -10015-40-OECA]

Proposed Information Collection Request; Comment Request; Annual Public Water Systems Compliance Report

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency is planning to submit an information collection request (ICR), "Annual Public Water System Compliance Report" (EPA ICR No. 1812.07, OMB Control No. 2020-0020) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act. Before doing so, EPA is soliciting public comments on specific aspects of the proposed information collection as described below. This is a proposed extension of the ICR, which is currently approved through June 30, 2021. An Agency may not conduct or sponsor and a person is not required to respond to a collection of information

unless it displays a currently valid OMB control number.

DATES: Comments must be submitted on or before April 23, 2021.

ADDRESSES: Submit your comments, referencing Docket ID No. EPA-HQ-OECA-2020-0438 online using www.regulations.gov (our preferred method), by email to docket.oeca@epa.gov, or by mail to: EPA Docket Center, Environmental Protection Agency, Mail Code 28221T, 1200 Pennsylvania Ave. NW, Washington, DC 20460.

EPA's policy is that all comments received will be included in the public docket without change including any personal information provided, unless the comment includes profanity, threats, information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute.

FOR FURTHER INFORMATION CONTACT: Raquel Taveras, Monitoring, Assistance and Media Programs Division, Office of Compliance, MC-2227A, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460; telephone number: (202) 564-9651; email address: taveras.raquel@epa.gov.

SUPPLEMENTARY INFORMATION:

Supporting documents which explain in detail the information that the EPA will be collecting are available in the public docket for this ICR. The docket can be viewed online at www.regulations.gov or in person at the EPA Docket Center, WJC West, Room 3334, 1301 Constitution Ave. NW, Washington, DC. The telephone number for the Docket Center is 202-566-1744. For additional information about EPA's public docket, visit <http://www.epa.gov/dockets>.

Pursuant to section 3506(c)(2)(A) of the PRA, EPA is soliciting comments and information to enable it to: (i) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility; (ii) evaluate the accuracy of the Agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (iii) enhance the quality, utility, and clarity of the information to be collected; and (iv) minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of

responses. EPA will consider the comments received and amend the ICR as appropriate. The final ICR package will then be submitted to OMB for review and approval. At that time, EPA will issue another **Federal Register** notice to announce the submission of the ICR to OMB and the opportunity to submit additional comments to OMB.

Abstract: Section 1414(c)(3)(A) of the Safe Drinking Water Act (SDWA) requires that each state (a term that includes states, commonwealths, tribes and territories) that has primary enforcement authority under the SDWA shall prepare, make readily available to the public, and submit to the Administrator of EPA, an annual report of violations of national primary drinking water regulations in the state. These Annual State Public Water System Compliance Reports are to include violations of maximum contaminant levels, treatment requirements, variances and exemptions, and monitoring requirements determined to be significant by the Administrator after consultation with the states. To minimize a state's burden in preparing its annual statutorily required report, EPA issued guidance that explains what Section 1414(c)(3)(A) requires and provides model language and reporting templates. EPA also annually makes available to the states a computer query that generates for each state (from information states are already separately required to submit to EPA's national database on a quarterly basis) the required violations information in a table consistent with the reporting template in EPA's guidance.

Form Numbers: None.

Respondents/affected entities: Entities that are potentially affected by this action are States that have primacy enforcement authority and meet the definition of "state" under the SDWA.

Respondent's obligation to respond: Mandatory under Section 1414 (c)(3)(A) of SDWA.

Estimated number of respondents: 55 (total).

Frequency of response: Annually.

Total estimated burden: 4,400 hours (per year). Burden is defined at 5 CFR 1320.03(b).

Total estimated cost: \$530,000(per year), includes \$0 annualized capital or operation & maintenance costs.

Changes in Estimates: There is no change in burden from the most recently approved ICR as currently identified in the OMB Inventory of Approved Burdens. This is due to two considerations. First, the regulations have not changed over the past three years and are not anticipated to change

over the next three years. Second, the growth rate for this industry is very low or non-existent, so there is no significant change in the overall burden. Since there are no changes in the regulatory requirements and there is no significant industry growth, there are also no changes in the capital/startup or operation and maintenance (O&M) costs. There is a slight increase in costs, which is wholly due to the use of updated labor rates. This ICR uses labor rates from the most recent Bureau of Labor Statistics report (September 2020) to calculate respondent burden costs.

John Dombrowski,

Deputy Director, Office of Compliance.

[FR Doc. 2021-03480 Filed 2-19-21; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

[FRL-10017-01-OECA]

Applicability Determination Index Data System Posting: EPA Formal Responses to Inquiries Concerning Compliance With the Clean Air Act Stationary Source Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of availability.

SUMMARY: This notice announces the availability of applicability determinations, alternative monitoring decisions, and regulatory interpretations made by EPA with regard to the New Source Performance Standards (NSPS); the National Emission Standards for Hazardous Air Pollutants (NESHAP); the Emission Guidelines and Federal Plan Requirements for existing sources; and/or the Stratospheric Ozone Protection Program.

FOR FURTHER INFORMATION CONTACT: An electronic copy of each complete document posted on the Applicability Determination Index (ADI) data system is available on the internet through the Resources and Guidance Documents for Compliance Assistance page of the Clean Air Act Compliance Monitoring Website under "Air" at: <https://www.epa.gov/compliance/resources-and-guidance-documents-compliance-assistance>. The letters and memoranda on the ADI may be located by author, date, office of issuance, subpart, citation, control number, or by string word searches. For questions about the ADI or this notice, contact Maria Malave, Monitoring, Assistance and Media Programs Division by phone at: (202) 564-7027, or by email at: malave.maria@epa.gov. For technical

questions about individual applicability determinations, monitoring decisions, or regulatory interpretations, refer to the contact person identified in each individual document, or in the absence of a contact person, refer to the author of the document.

SUPPLEMENTARY INFORMATION:

Background

The General Provisions of the NSPS in 40 Code of Federal Regulations (CFR) part 60 and the General Provisions of the NESHAP in 40 CFR part 61 provide that a source owner or operator may request a determination of whether certain intended actions constitute the commencement of construction, reconstruction, or modification. 40 CFR 60.5 and 61.06. The General Provisions in part 60 also apply to Federal and EPA-approved state plans for existing sources in 40 CFR part 62. See 40 CFR 62.02(b)(2). The EPA's written responses to source or facility-specific inquiries on provisions in parts 60, 61 and 62 are commonly referred to as applicability determinations. Although the NESHAP part 63 regulations [which include Maximum Achievable Control Technology (MACT) standards and/or Generally Available Control Technology (GACT) standards] contain no specific regulatory provision providing that sources may request applicability determinations, the EPA also responds to written inquiries regarding applicability for the part 63 regulations. In addition, the General Provisions in part 60 and 63 allow sources to seek permission to use monitoring or recordkeeping that is different from the promulgated requirements. See 40 CFR 60.13(i), 61.14(g), 63.8(b)(1), 63.8(f), and 63.10(f). The EPA's written responses to these inquiries are commonly referred to as alternative monitoring decisions. Furthermore, the EPA responds to written inquiries about the broad range of regulatory requirements in 40 CFR parts 60 through 63 as they pertain to a whole source category. These inquiries may pertain, for example, to the type of sources to which the regulation applies, or to the testing, monitoring, recordkeeping, or reporting requirements contained in the regulation. The EPA's written responses to these inquiries are commonly referred to as regulatory interpretations.

The EPA currently compiles EPA-issued NSPS and NESHAP applicability determinations, alternative monitoring decisions, and regulatory interpretations, and posts them to the ADI on a regular basis. In addition, the ADI contains EPA-issued responses to requests pursuant to the stratospheric

ozone regulations contained in 40 CFR part 82. The ADI is a data system accessed via the internet, with over three thousand EPA letters and memoranda pertaining to the applicability, monitoring, recordkeeping, and reporting requirements of the NSPS, NESHAP, emission guidelines and Federal Plans for existing sources, and stratospheric ozone regulations. Users can search for letters and memoranda by author, date, office of issuance, subpart, citation, control number, or by string word searches.

Today's notice comprises a summary of 59 such documents added to the ADI on October 22, 2020. This notice lists the subject and header of each letter and memorandum, as well as a brief abstract

of the content. Complete copies of these documents may be obtained from the ADI on the internet through the Resources and Guidance Documents for Compliance Assistance page of the Clean Air Act Compliance Monitoring website under "Air" at: <https://www.epa.gov/compliance/resources-and-guidance-documents-compliance-assistance>.

Summary of Headers and Abstracts

The following table identifies the database control number for each document posted on October 22, 2020 to the ADI data system; the applicable category; the section(s) and/or subpart(s) of 40 CFR part 60, 61, 62, 63 and 82 (as applicable) addressed in the document; and the title of the document, which

provides a brief description of the subject matter.

Also included in this notice, is an abstract of each document identified with its control number. These abstracts are being provided to the public as possible items of interest and are not intended as substitutes for the contents of the original documents. This notice does not change the status of any document with respect to whether it is "of nationwide scope or effect" for purposes of CAA section 307(b)(1). For example, this notice does not convert an applicability determination for a particular source into a nationwide rule. Neither does it purport to make a previously non-binding document binding.

APPLICABILITY DETERMINATIONS, ALTERNATIVE MONITORING PLANS AND REGULATORY INTERPRETATIONS UPLOADED TO ADI ON OCTOBER 22, 2020

Control No.	Categories	Subparts	Title
1900024	NSPS	OOOOa	Applicability Determination for Mainline Valve at a Compressor Station.
1900025	NSPS, NESHAP	LLL, KKK, OOOO HH ...	Applicability Determination for Sweetening Units Installed on a Natural Gas Processing Plant.
1900026	NSPS	Ja	Alternative Monitoring Plan for Span Gas Concentration for Total Reduced Sulfur Continuous Emissions Monitoring System for Flares at Petroleum Refineries.
1900027	NSPS	J, Ja	Alternative Monitoring Plan and Performance Test Waiver for Hydrogen Sulfide Monitoring of Tank Degassing Operations Controlled by Portable Fuel Gas Combustion Devices at Petroleum Refineries.
1900028	NESHAP, NSPS	J, Ja, UUU	Modification of Operating Parameter Limits in Alternative Monitoring Plan for a Wet Gas Scrubber installed on Fluidized Catalytic Cracking Units at a Refinery.
1900030	NSPS	J	Waiver Request of the Frequency Particulate Matter Testing for Fluidized Catalytic Cracking Unit at a Refinery.
1900031	NESHAP, NSPS	J, Ja, UUU	Modification of Alternative Monitoring Plan to Allow Parametric Monitoring In lieu of Continuous Opacity Monitoring of a Wet Gas Scrubber Installed on a Fluidized Catalytic Cracking Unit at a Refinery.
1900032	NSPS	J	Alternative Monitoring Plan for Delayed Coking Unit Installed on Disulfide Oil Oxidation Tower at a Refinery.
1900033	NESHAP, NSPS	J, UUU	Modification of Alternative Monitoring Plan to Allow Parametric Monitoring In lieu of Continuous Opacity Monitoring of a Wet Gas Scrubber Installed on a Fluidized Catalytic Cracking Unit at a Refinery.
1900034	NSPS	XXX	Applicability Determination for Expansion of a Landfill.
1900035	NSPS	J, Ja	Alternative Monitoring Plan for Hydrogen Sulfide Monitoring of Storage Tank, Process Unit Vessel, and Piping Degassing Operations Controlled by Portable Fuel Gas Combustion Devices at Petroleum Refineries.
1900036	NSPS	Db	Alternative Monitoring Plan to Allow Predictive Emissions Monitoring In lieu of Continuous Emission Monitoring of NO _x Emissions from a Boiler at a Packaging Facility.
1900037	NSPS	Db	Extension Due to Force Majeure Events of Initial Performance Test of NO _x Emissions from a Boiler at a Mining Company.
1900038	NSPS	Ja	Alternative Monitoring Plan for Span Gas Range for NO _x Continuous Emissions Monitoring System for Heaters at a Petroleum Refinery.
1900039	NSPS	UUU	Alternative Monitoring Plan for Wet Scrubbers on Fluidized Bed Dryers at Non-metallic Mineral Processing Facilities.
2000001	NSPS	OOO	Regulatory Interpretation for Vibratory Feeders at a Limestone Quarry.
2000003	NSPS	EEEE	Applicability Determination for Rural Institutional Waste Incinerators.
2000004	NESHAP, NSPS	Db, DDDDD	Alternative Monitoring Plan for Biomass Boiler at Kraft Pulp Mill.
2000005	NSPS	A, J, Ja	Alternative Monitoring Plan and Performance Testing Waiver for Hydrogen Sulfide Monitoring of Tank Degassing Operations Controlled by Portable Fuel Gas Combustion Devices at Petroleum Refineries.
2000007	NESHAP, NSPS	Db, DDDDD	Alternative Monitoring Plan for Wood-Residue Fueled Boilers at a Paper-board Mill.
2000013	NSPS	A	Regulatory Interpretation of the use of Part 60, Appendix F- Quality Assurance Procedures.
FP00008	Federal Plan	LLL	Modification to Alternative Monitoring Plan for Fluidized Bed Sewage Sludge Incinerator at a Wastewater Treatment Plant.

APPLICABILITY DETERMINATIONS, ALTERNATIVE MONITORING PLANS AND REGULATORY INTERPRETATIONS UPLOADED TO
ADI ON OCTOBER 22, 2020—Continued

Control No.	Categories	Subparts	Title
FP00009	Federal Plan	LLL	Alternative Monitoring Plan for Fluidized Bed Sewage Sludge Incinerator at a Wastewater Treatment Plant.
FP00010	Federal Plan	LLL	Alternative Monitoring Plan for Fluidized Bed Sewage Sludge Incinerator at a Wastewater Treatment Plant.
FP00011	Federal Plan	LLL	Alternative Monitoring Plan for Fluidized Bed Sewage Sludge Incinerator Installed at a Wastewater Treatment Plant.
FP00012	Federal Plan	LLL	Alternative Monitoring Plan for Multiple Hearth Sewage Sludge Incinerators Installed at a Wastewater Treatment Plant.
FP00013	Federal Plan	LLL	Alternative Monitoring Plan for Multiple Hearth Sewage Sludge Incinerator Installed at a Wastewater Treatment Plant.
M190004	NESHAP, NSPS	F, LLL	Alternative Monitoring Plan for Parametrically Monitoring Sulfur Dioxide Emissions at a Portland Cement Plant.
M190005	NESHAP	S	Modification of Alternative Monitoring Plan for Steam Stripper Installed on a Kraft Pulp Mill.
M190006	NESHAP	DDDDD	Alternative Monitoring Plan for Combination Boilers at a Packaging Manufacturing Facility.
M190007	NESHAP	MM	Alternative Monitoring Plan for Dynamic Scrubbers Installed on Smelt Dissolving Tanks at a Kraft Pulp Mill.
M190008	NESHAP	MM	Alternative Monitoring Plan for Dynamic Scrubbers Installed on Smelt Dissolving Tanks at a Kraft Pulp Mill.
M190009	NESHAP	MM	Alternative Monitoring Plan for Dynamic Scrubbers Installed on Smelt Dissolving Tanks at a Kraft Pulp Mill.
M190010	NESHAP	MM	Alternative Monitoring Plan for Dynamic Scrubbers Installed on Smelt Dissolving Tanks at a Kraft Pulp Mill.
M190011	NESHAP	MM	Alternative Monitoring Plan for Dynamic Scrubbers Installed on Smelt Dissolving Tanks at a Kraft Pulp Mill.
M190012	NESHAP	MM	Alternative Monitoring Plan for Dynamic Scrubbers Installed on Smelt Dissolving Tanks at a Kraft Pulp Mill.
M190013	NESHAP	MM	Alternative Monitoring Plan for Dynamic Scrubbers Installed on Smelt Dissolving Tanks at Kraft Pulp Mill.
M190014	NESHAP	GGG	Alternative Monitoring Plan for Verifying Flow to Control System Installed on Batch-Operated Pharmaceuticals Manufacturing Facility.
M190015	NESHAP, NSPS	BB, MM	Alternative Monitoring Plan for Dynamic Scrubber Installed on Smelt Dissolving Tanks at Kraft Pulp Mill.
M190016	NESHAP, NSPS	BB, MM	Alternative Monitoring Plan for Dynamic Scrubbers Installed on Smelt Dissolving Tanks at Kraft Pulp Mill.
M190017	NESHAP	CC	Alternative Monitoring Plan for a Cascading Flare System Installed at a Petroleum Refinery.
M190018	NESHAP	JJJJJ	Performance Test Waiver for Carbon Monoxide for Boilers.
M190019	NESHAP	FFFF, HHHHH	Applicability Determination for Separation Activity at a Coatings Manufacturing Facility.
M190020	NESHAP	EEE	Approval of Minor Test Method Modifications for Hazardous Waste Incinerators.
M190021	NESHAP	RRR	Alternative Monitoring Plan for Intermittent Lime Addition to Baghouse Installed on Aluminum Melting Furnaces at a Secondary Aluminum Production Facility.
M200001	NESHAP	CCC	Alternative Monitoring Plan for Wet Scrubber Installed on a Steel Pickle Line at a Steel Pickling Facility.
M200002	NESHAP, NSPS	BB, BBa, MM	Alternative Monitoring Plan for Electrostatic Precipitator and Wet Scrubber Installed on a Lime Kiln at a Kraft Pulp Mill.
M200003	NESHAP	G, S	Alternative Monitoring Plan for Equipment that is Unsafe or Difficult to Monitor at a Pulp and Paper Mill.
M200004	NESHAP	UUUUU	Applicability Determination for Electric Utility Steam Generating Units.
M200005	NESHAP	VVVVVV, CCCCCC	Applicability Determination for a Lithium Ion Battery Manufacturing Facility.
M200006	NESHAP	DDDDD	Alternative Monitoring Plan for Chlorine and Mercury Monitoring for Combination Boiler Installed at a Pulp and Paper Mill.
M200007	NESHAP	RRR	Applicability Determination for Thermal Chip Dryer Installed at a Secondary Aluminum Production Facility.
M200008	NESHAP	MM	Alternative Monitoring Plan for Dynamic Scrubbers Installed on Smelt Dissolving Tanks at a Kraft Pulp Mill.
M200009	NESHAP	MM	Alternative Monitoring Plan for Dynamic Scrubbers Installed on Smelt Dissolving Tanks at a Kraft Pulp Mill.
M200015	MACT	CC	Regulatory Interpretation of Petroleum Refinery Regulations for Flaring Events.
Z190001	NESHAP	ZZZZ	Alternative Monitoring Plan for Stationary Reciprocating Internal Combustion Engines Installed at Natural Gas Compressor Stations.
Z200002	NESHAP	MM	Alternative Monitoring Plan for Dynamic Scrubbers Installed on Smelt Dissolving Tanks at a Kraft Pulp Mill.
Z200003	NESHAP	LLLLL	Alternative Monitoring Plan for Group 2 Storage Tanks at an Asphalt Roofing Manufacturing Facility.

APPLICABILITY DETERMINATIONS, ALTERNATIVE MONITORING PLANS AND REGULATORY INTERPRETATIONS UPLOADED TO
ADI ON OCTOBER 22, 2020—Continued

Control No.	Categories	Subparts	Title
Z200004	NESHAP	VVVVVV, BBBBBB, CCCCCC.	Applicability Determination for Frit Manufacturing Facility.
Z200005	NESHAP	ZZZZ	Alternative Monitoring Plan for Reciprocating Internal Combustion Engines at a Natural Gas Plant.

Abstracts

Abstract for [1900024]

Q: Does EPA determine that Mainline Valve 29 (MLV 29) installed at the Southern Natural Gas Company compressor station in Thomaston, Georgia (TCS) is part of the affected facility subject to the fugitive emission monitoring requirements in NSPS subpart OOOOa?

A: Yes. Based on the information provided, EPA determines that when the modification to TCS occurred in March 2017, MLV 29 became part of the affected facility subject to the fugitive emissions monitoring requirements of subpart OOOOa. According to 40 CFR 60.5397a, "the collection of fugitive emissions components at a compressor station, as defined in § 60.5430a, is an affected facility," and MLV 29 meets the definition of "fugitive emissions components" because it is a component located within the fence line of a compressor station and potentially emits fugitive emissions of methane and volatile organic compounds.

Abstract for [1900025]

Q: Does EPA determine that the sweetening units and sweetening units followed by a sulfur recovery unit (hereinafter referred to collectively as "sweetening units") at the Lost Cabin Gas Plant in Lysite, Wyoming are affected facilities under NSPS subpart LLL?

A: Yes. Based on the information provided and our analysis of subpart LLL, EPA determines that the sweetening units are affected facilities under NSPS subpart LLL because subpart LLL applies to sweetening units that "process natural gas," and although subpart LLL does not define "process natural gas," the preambles to the proposed and final subpart LLL rulemakings (49 FR 2656, January 20, 1984 and 50 FR 40158, October 1, 1985) clarify that gas processing in subpart LLL refers to sweetening and sulfur recovery.

Abstract for [1900026]

Q: Does EPA approve alternate span gas concentration values for hydrogen sulfide (H₂S) on the total reduced sulfur

(TRS) continuous emissions monitoring system (CEMS) for the Fluor and Cumene flares at the Citgo Refining and Chemicals Company (CITGO) Corpus Christi East petroleum refinery and the West Plant Process flare at the CITGO Corpus Christi West Plant petroleum refinery in Corpus Christi, Texas covered under NSPS subpart Ja?

A: Yes. Based on the process data and analyzer information submitted by CITGO, EPA conditionally approves the request to reduce the concentration ranges of the calibration gas to specified ranges and validation standards on the TRS CEMS for the three flares. As conditions of this approval, CITGO must meet all other requirements of the monitoring procedures of NSPS Subpart Ja for H₂S and TRS, and must also conduct linearity analyses on each Extrel MAX300-IG™ mass spectrometer once every three years to determine each detector's linearity across the entire range of expected sulfur concentrations. A report of each completed linearity analysis shall be submitted to EPA Region 6 and the Texas Commission on Environmental Quality and maintained in each facility's on-site records.

Abstract for [1900027]

Q: Does EPA approve an alternative monitoring plan (AMP) and performance test waiver request for ProAct Services Corporation (ProAct) to conduct monitoring of hydrogen sulfide (H₂S) emissions in lieu of installing a continuous emission monitoring system, when performing degassing for tanks, vessels, and pipes controlled by portable temporary thermal oxidizers and internal combustion engines at various refineries located in EPA Region 6 that are subject to NSPS subparts J and Ja?

A: Yes. Based on the description of the process, the vent gas streams, the design of the vent gas controls, and the proposed H₂S monitoring and data collection methods furnished by ProAct Services Corporation, EPA conditionally approves the AMP. In addition, based on ProAct's proposed alternate testing protocols used during each degassing event, EPA waives performance testing pursuant to 40 CFR 60.8(b)(4). The

approved AMP and performance test waiver are only for refineries located in EPA Region 6. EPA includes proposed operating parameter limits and data that the refineries must furnish as part of the conditional approval.

Abstract for [1900028]

Q: Does EPA approve a modification of a previously approved alternative monitoring plan (AMP) for Phillips 66 Company to revise the parametric monitoring limits for the wet gas scrubbers (WGS) installed on Nos. 4 and 5 fluidized catalytic cracking units (FCCU) at the Ponca City Refinery in Ponca City, Oklahoma covered by NSPS subpart J and NESHAP subpart UUU?

A: Yes. Based upon the design of the WGS units and the process specific supplemental information provided by Phillips 66 Company, EPA conditionally approves the AMP modification for the two FCCU WGS at the Ponca City Refinery. EPA reviewed the recent performance test results provided by Phillips 66 Company and found the data supportive for modifying the values of the established final operating parameter limits (OPLs). The OPLs approved for demonstrating compliance with the AMP included minimum liquid-to-gas ratio, minimum water pressure to quench/spray tower, minimum slurry liquid circulation pump discharge pressure, and minimum pressure drop across filter modules/cyclolabs.

Abstract for [1900030]

Q: Does EPA approve ExxonMobil Refining and Supply Company's (ExxonMobil's) waiver of the frequency of particulate matter (PM) emission rate testing for one fluidized catalytic cracking unit (FCCU) at the Beaumont Refinery, Beaumont, Texas, which is subject to NSPS subpart J and annual testing PM testing under consent decree, Civil Action No. 05-C-5809?

A: Yes. EPA conditionally approves ExxonMobil's request to reduce the frequency of PM testing for the one FCCU at the Beaumont Refinery from annually to once every five years, with the limitation that ExxonMobil shall resume annual PM testing for the FCCU any time the NSPS subpart J emission

limit of 1.0 pound of PM per 1000 pounds of coke burned (on a 3-hour average basis) is exceeded.

Abstract for [1900031]

Q: Does EPA approve a modification of a previously issued alternative monitoring plan (AMP) for the wet gas scrubber (WGS) on one fluidized catalytic cracking unit (FCCU) at the Marathon El Paso Refinery in El Paso, Texas, subject to NSPS subparts J and Ja and NESHAP subpart UUU, for parametric monitoring of opacity at the WGS in lieu of a continuous opacity monitoring system (COMS), due to changes in operating conditions at the units when moisture levels are high in the stacks?

A: Yes. Based upon the design of the WGS unit and the process specific supplemental information provided, EPA approves the AMP modification to use parametric monitoring in lieu of COMS for the WGS on one FCCU at the Marathon El Paso Refinery. EPA reviewed the recent performance test results and found the data supportive for modifying the final operating parameter limits (OPLs). The OPLs that EPA approves for demonstrating compliance with the AMP included minimum Liquid-to-Gas Ratio and the minimum pressure drop across the WGS.

Abstract for [1900032]

Q: Does EPA approve an alternative monitoring plan (AMP) if delayed coking unit (DCU) 843 is rerouted from Flare #23 to the Merichem Flare, to exempt Valero Port Arthur Refinery (Valero) in Port Arthur, Texas subject to NSPS subpart J from monitoring hydrogen sulfide (H₂S) in the DCU 843 overhead vapor stream from the disulfide oxidation tower T-6750?

A: Yes. Based on the description of the vent gas stream, the process parameters to be monitored, the design of the vent gas controls, and H₂S monitoring data, EPA conditionally approves the AMP. The fuel gas stream from the disulfide oxidation tower T-6750 is inherently low in sulfur as demonstrated by H₂S monitoring data previously furnished to EPA for a previously issued AMP exempting H₂S monitoring for oxidation tower T-6750 when DCU 843 was previously routed to Flare #23. Valero must continue to meet all other applicable NSPS requirements, and the DCU 843 overhead vapor stream from disulfide oil oxidation tower T-6750 must be combusted in the Merichem Flare.

Abstract for [1900033]

Q: Does EPA approve a modification of a previously issued alternative monitoring plan (AMP) for the wet gas scrubber (WGS) on one fluidized catalytic cracking unit (FCCU) at the Shell Chemical, LP Deer Park Refinery in Deer Park, Texas (Shell Chemical, LP), subject to NSPS subpart J and NESHAP subpart UUU, for parametric monitoring of opacity at the WGS in lieu of a continuous opacity monitoring system (COMS)?

A: Yes. Based upon the design of the WGS unit and the process specific data and supplemental information provided by Shell Chemical, LP, EPA approves an AMP modification to use parametric monitoring in lieu of COMS for the WGS on one FCCU at the Deer Park Refinery. EPA reviewed the recent performance test results and found the data supportive for modifying the final operating parameter limits (OPLs). The OPLs that EPA approves for demonstrating compliance with the AMP included minimum Liquid-to-Gas Ratio, minimum liquid side pressure at the filter module nozzles, and minimum pressure drop at the quench nozzle.

Abstract for [1900034]

Q: Does EPA determine that an expansion to the Advanced Disposal Services Glacier Ridge Landfill, LLC (GRL) in Horicon, Wisconsin meets the applicability criteria of NSPS subpart XXX, if the expansion was approved under a solid waste permit and construction had commenced prior to July 17, 2014?

A: No. EPA determines that GRL landfill expansion has not triggered subpart XXX applicability because a modification as defined in under 40 CFR 60.761 has not occurred. GRL's current design capacity of 20,269,000 cubic yards was permitted by the Wisconsin Department of Natural Resources prior to July 17, 2014 and construction on that permitted expansion was commenced prior to July 17, 2014, the effective date of NSPS subpart XXX.

Abstract for [1900035]

Q: Does EPA approve the alternative monitoring plan (AMP) request from PSC Industrial Outsourcing, LP (HydroChemPSC) to conduct monitoring of hydrogen sulfide emissions, in lieu of installing a continuous emission monitoring system, when performing degassing for storage tanks, process unit vessels, and piping controlled by temporary portable fuel gas combustion devices (FGCDs) at petroleum refineries located in EPA Region 5 that are subject to NSPS subparts J and Ja?

A: Yes. Since the storage tank, process unit vessel and piping degassing operations are infrequent and temporary, EPA conditionally approves an AMP when HydroChemPSC uses a portable FGCD to control emissions from these processes. EPA included in the response letter specifications regarding sampling procedures, frequency of sampling, methods to determine compliance, recordkeeping, and data that the refineries must furnish as part of the conditional approval.

Abstract for [1900036]

Q: Does EPA approve an alternative monitoring plan (AMP) request from Packaging Corporation of America (PCA) to use a predictive emission monitoring system (PEMS) in lieu of a NO_x continuous emission monitoring system (CEMS) on Boiler B24 at the PCA facility in Tomahawk, Wisconsin, subject to NSPS subpart Db?

A: No. Based on the information provided, EPA denies PCA's AMP request for use of a PEMS in lieu of a Nox CEMS because the heat input capacity of Boiler B24 (352.9 MMBtu/hr) significantly exceeds the 250 MMBtu/hr capacity limit in 40 CFR 60.49b(c) for allowing use of PEMS and Boiler B24. Additionally, Boiler B24 may burn types of solid fuels (e.g., biomass, tire-derived fuel, paper recycling residuals, and paper pellets) not identified in 40 CFR 60.48b(g)(2). Finally, Boiler B24 was constructed in 1977 and has been in operation since that time.

Abstract for [1900037]

Q: Does EPA approve an extension of the deadline from April 2, 2019 to July 31, 2019 for the initial performance test for nitrogen oxides (NO_x) emissions for Boiler No. 4 at the Tilden Mining Company, LLC, (Tilden) facility in Ishpeming, Michigan, covered by NSPS subpart Db, due to force majeure events including a series of equipment failures that delayed achieving the maximum production rate?

A: No. Based on the information provided, EPA denies the request for an extension of the performance test deadline. Based on the information provided, Tilden's Boiler No. 4 achieved maximum production rate on February 1, 2019, providing the 60-day testing period specified in 40 CFR 60.8(a). Because Tilden had 60 days to complete testing prior to April 2, 2019, the equipment failures do not qualify as force majeure events, which are defined by 40 CFR 60.2 as "prevent[ing] the owner or operator from complying with the regulatory requirement to conduct

performance tests within the specified timeframe.”

Abstract for [1900038]

Q: Does EPA approve an alternate span gas concentration range equal to 1 to 3 times the NSPS subpart Ja limit for the nitrogen oxides (NOx) continuous emission monitoring system (CEMS) for heaters 25H-3, 25H-4, 37H-3/4/5, and 30H-401 at the Flint Hills Resources Pine Bend Refinery (FHR) in Saint Paul, Minnesota covered under NSPS subpart Ja?

A: Yes. Based on the process data and analyzer information submitted by FHR, EPA conditionally approves the request to change the span gas range to 1 to 3 times the NSPS Subpart Ja limit for the NOx CEMS for the four heaters because a lower span should provide more accurate measurement of NOx emissions from these heaters during typical operations. The conditions for approval are specified in the EPA response letter.

Abstract for [1900039]

Q: Does EPA approve Covia Holdings Corporation's (Covia's) alternative monitoring plan (AMP) request to establish pressure drop and liquid flow rate parametric limits for monitoring particulate matter (PM) emissions from wet scrubbers on fluidized bed dryers at its two non-metallic mineral processing facilities located in Ottawa, Minnesota and Kasota, Minnesota, subject to NSPS subpart UUU, by using for each scrubber, the results of multiple performance tests conducted 2012 through the most recent performance test, as opposed to using only the most recent performance test?

A: Yes. Based on the performance test and process data submitted by Covia, as well as Covia's statement that there have been no modifications to any of the processes or control devices since the earliest test, EPA conditionally approves the request. The conditions for the approval are specified in the EPA response letter and exclude use of any test older than 12 years or conducted prior to modifications to the dryer or scrubber, and any test that resulted in PM emissions above ten percent of the emissions limit that would lower the minimum pressure drop or expand the liquid flow rate range. Additionally, all future test results for the wet scrubbers must be shared with EPA Region 5 and the Minnesota Pollution Control Agency.

Abstract for [2000001]

Q: Does EPA determine that two vibratory feeders at the Blue Waters Industries' limestone quarry in Lebanon, Tennessee meet the definition of

affected facilities under NSPS subpart OOO?

A: No. Based upon the design and operation of the vibratory feeders, EPA determines that the feeders do not fit the definitions of any of the facilities subject to subpart OOO. Although the feeders are not affected facilities under subpart OOO, the transfer points from the feeders onto two downstream conveyor belts would be subject to an opacity limit in Table 3 to subpart OOO for fugitive emissions sources, if the conveyors were constructed, modified, or reconstructed after August 13, 1983.

Abstract for [2000003]

Q: Does EPA determine that the institutional waste incinerators operated at four United States Air Force (USAF) Long Range Radar Sites (LRRS) located in Point Barrow, Barter Island, Cold Bay, and Oliktok, Alaska qualify under 40 CFR 60.2887(h) to be excluded from NSPS subpart EEEE?

A: No. EPA determines that the USAF LRRS institutional waste incinerators do not qualify for the “rural institutional waste incinerators” exclusion under 40 CFR 60.2887(h) under subpart EEEE because the application for exclusion was not submitted prior to the initial startup of the incinerators and information was not provided demonstrating that alternative disposal options are unavailable or economically infeasible.

Abstract for [2000004]

Q: Does EPA approve an alternative monitoring plan (AMP) to continuously monitor pressure drop and liquid flow rate of the venturi scrubber installed on the No. 1 bark boiler at the Foley Cellulose LLC Kraft pulp mill (Foley Mill) in Perry, Florida subject to NSPS Subpart Db, in lieu of continuously monitoring opacity or particulate matter (PM)?

A: Yes. Based on the information provided, EPA approves the AMP. EPA agrees with the technical concerns raised by Foley Mill regarding using a PM continuous emission monitoring system or continuous opacity monitoring system on biomass-fired boilers, due to water droplets in the flue downstream of the scrubbers. The approved AMP is equivalent to the PM monitoring requirements for a 300 MMBtu/hour biomass boiler subject to NESHAP subpart DDDDD, and the requirements of the AMP are detailed in the EPA response letter.

Abstract for [2000005]

Q: Does EPA approve an Alternative Monitoring Plan (AMP) and performance test waiver request for USA

DeBusk, LLC (Debusk) to conduct monitoring of hydrogen sulfide (H₂S) emissions, in lieu of installing a continuous emission monitoring system, when performing degassing for tanks, vessels, and piping controlled by temporary portable fuel gas combustion devices (FGCDs) at petroleum refineries located in Region 4 that are subject to NSPS subparts J and Ja?

A: Yes. Based on the description of the process, the vent gas streams, the design of the vent gas controls, and the proposed H₂S monitoring and data collection methods furnished by Debusk, EPA conditionally approves the AMP for H₂S emissions from degassing and cleaning of tanks, vessels, and piping. In addition, based on Debusk's proposed alternate testing protocols used during each degassing event, EPA waives performance testing pursuant to 40 CFR 60.8(b)(4). EPA includes in the response letter conditions regarding sampling procedures, re-sampling requirements, methods for determining compliance, FGCD operation, recordkeeping, and reporting.

Abstract for [2000007]

Q: Does EPA approve an alternative monitoring plan (AMP) to continuously monitor scrubber operating parameter limits (OPLs) to demonstrate compliance with the opacity limit for the No. 2 and No. 3 wood-residue fueled boilers equipped, respectively, with a wet electrostatic precipitator (WESP) and a venturi scrubber, at the WestRock Coated Board, LLC Mahrt Mill in Phenix City, Alabama subject to NSPS subpart Db?

A: Yes. EPA approves the AMP as proposed to continuously monitor the operating load or steam generation for both boilers, the total secondary electric power input of the WESP for the No. 2 boiler, and the pressure drop and liquid flow rate of the scrubber for the No. 3 boiler. EPA agrees with the technical concerns raised by Mahrt Mill regarding using a PM continuous emission monitoring system or continuous opacity monitoring system on biomass-fired boilers, due to water droplets in the flue downstream of the scrubbers. The approved AMP is equivalent to the PM monitoring requirements for biomass boilers of equivalent size subject to NESHAP subpart DDDDD, and the requirements of the AMP are detailed in the EPA response letter.

Abstract for [2000013]

Q: Does EPA agree with the Oklahoma Department of Environmental Quality (ODEQ) that all affected sources subject to any NSPS are required to comply with the requirements specified

in appendix F to 40 CFR part 60, which is used for continuous emission monitoring systems (CEMS) in determining compliance with emissions limits as specified in the NSPS General Provisions?

A: No. Each subpart should be reviewed for applicable references to appendix F and portions of the General Provisions (GP) to 40 CFR part 60 for affected facilities specified in the subpart. Due consideration should be given to the applicability sections provided within each subpart and appendix F (Quality Assurance Procedures).

Abstract for [FP00008]

Q: Does EPA approve a modification of a previously approved alternative monitoring plan (AMP) for establishing operating limits (OPLs) for the sewage sludge incinerator (SSI) using a VenturiPak™ wet scrubber with mercury modules at the City of Anacortes Wastewater Treatment Plant (Anacortes) in Anacortes, Washington subject to 40 CFR part 62, subpart LLL?

A: Yes. Based on the information provided, EPA conditionally approves the AMP modification. EPA agrees with establishing the sand bed temperature of the SSI as the operating parameter for monitoring dioxins/furans in lieu of the exhaust gas temperature, and Anacortes must limit the maximum dry sludge feed rate to no greater than 110 percent of the average dry sludge feed rate achieved during the most recent performance test demonstrating compliance with the dioxins/furans emission limits. EPA agrees with replacing the 12-hour block averaging time for OPLs specified in table 4 to subpart LLL with an “operating day block average” averaging time because Anacortes typically operates only 6 to 8 hours per day. EPA also agrees that the reduced performance testing frequency provided in 40 CFR 62.16000(a)(3) should apply to Anacortes. The approved operating parameters and conditions for establishing OPLs are specified in the EPA approval letter.

Abstract for [FP00009]

Q1: Does EPA approve an alternative monitoring plan (AMP) for establishing and monitoring operating parameters to demonstrate compliance with the mercury (Hg) emission limit applicable to the fluidized bed sewage sludge incinerator (SSI) equipped with a control equipment not specified in 40 CFR 62.15965 at the Edmonds Wastewater Treatment Plant (Edmonds) in Edmonds, Washington subject to 40 CFR part 62 subpart LLL?

A1: Yes. Based on the information provided, EPA approves the AMP for demonstrating compliance with the Hg emission limit by monitoring and recording continuously the pressure drop across the Hg control system (*i.e.*, W.L. Gore and Associates, Inc./EnviroCare International Sorbent Polymer Composite technology Hg control system in combination with a mist eliminator) and the inlet temperature to the system, and by monitoring on a quarterly basis the Hg concentrations in the flue gas at the inlet and outlet of the system.

Q2: Does EPA approve an AMP to use a wet scrubber system and to practice good combustion practices for demonstrating compliance with the dioxins/furans emission limit applicable to Edmonds' SSI?

A2: No. Based on the information provided, EPA does not approve the AMP because it does not propose to monitor any operating parameters or establish operating parameter limits (OPLs) for Edmonds' SSI to demonstrate compliance with the dioxins/furans emissions limit. Edmonds should submit a revised petition in accordance with 40 CFR 62.15965(b)(2)(i) through (v) that addresses dioxins/furans-specific operating parameters and OPLs associated with good combustion practices.

Q3: Does EPA approve Edmonds' AMP for its VenturiPak™ scrubber system to demonstrate compliance with the three OPLs for scrubbers in table 4 to subpart LLL, by monitoring the OPLs only at the drain that receives the total scrubber water discharge from the scrubber system?

A3: No. EPA does not approve the AMP because Edmonds did not provide the information specified by 40 CFR 62.15995(e)(1) through (6). Edmonds' scrubber system generally consists of five different scrubbers operated in series, and the Federal Plan requires monitoring pressure drop, liquid flow rate, and pH of each wet scrubber in a scrubber system. Edmonds may revise and resubmit their AMP.

Q4: Does EPA approve Edmonds' AMP changing the location for monitoring the minimum combustion chamber operating temperature of the SSI from the exhaust gas to the fluidized sand bed?

A4: Yes. Based on the information provided, EPA approves the AMP since the alternative location will enable accurate and representative measurements.

Q5: Does EPA approve Edmonds' AMP specifying the facility's ash handling system monitoring procedures?

A5: No. Based on the information provided, EPA does not approve the AMP because Edmonds' AMP does not include operating procedures to address the complete ash conveying system (including conveyor transfer points) or sufficient information for EPA to evaluate whether daily inspections of the ash handling system and observation of the loadout activities will be adequate to meet the requirements of 40 CFR 62.15955 and 62.15995 on an ongoing basis. Edmonds may revise and resubmit their AMP.

Abstract for [FP00010]

Q1: Does EPA approve an alternative monitoring plan (AMP) to demonstrate compliance with the mercury (Hg) emission limit applicable to the fluidized bed sewage sludge incinerator (SSI) equipped with a W.L. Gore and Associates, Inc./EnviroCare International Sorbent Polymer Composite technology Hg control system at the Lynnwood Wastewater Treatment Plant (Lynnwood) in Lynnwood, Washington subject to 40 CFR part 62 subpart LLL?

A1: Yes. Based on the information provided, EPA approves the AMP for demonstrating compliance with the Hg emission limit by monitoring and recording continuously the pressure drop across the Hg control system and the inlet temperature to the system, and by monitoring on a quarterly basis the Hg concentrations in the flue gas at the inlet and outlet of the system.

Q2: Does EPA approve an AMP to use a wet scrubber system and to practice good combustion practices for demonstrating compliance with the dioxins/furans emission limit applicable to Lynnwood's SSI?

A2: No. Based on the information provided, EPA does not approve the AMP because it does not propose to monitor any operating parameters or establish operating parameter limits (OPLs) for Lynnwood's SSI to demonstrate compliance with the dioxins/furans emissions limit. Lynnwood should submit a revised petition in accordance with 40 CFR 62.15965(b)(2)(i) through (v) that addresses dioxins/furans-specific operating parameters and OPLs associated with good combustion practices.

Q3: Does EPA approve Lynnwood's AMP for its wet scrubber system to demonstrate compliance with the OPLs for scrubbers in table 4 to subpart LLL by monitoring the pressure drop across the venturi scrubber, the total scrubber water flow rates not including the mist eliminator, and the pH of the scrubber discharge from the impingement tray

scrubber and associated tray irrigation water flow?

A3: No. EPA does not approve the AMP because Lynnwood did not provide the information specified by 40 CFR 62.15995(e)(1) through (6). Lynnwood's scrubber system generally consists of five different scrubbers operated in series, and the Federal Plan requires monitoring pressure drop, liquid flow rate, and pH of each wet scrubber in a scrubber system. Lynnwood may revise and resubmit their AMP.

Q4: Does EPA approve Lynnwood's AMP for monitoring the minimum combustion chamber operating temperature of the SSI using the average reading of three thermocouples that measure the combustion temperature within the fluidized sand bed of the SSI?

A4: Yes. Based on the information provided, EPA approves the AMP for the SSI because it meets the 40 CFR 62.15960 requirements.

Q5: Does EPA approve Lynnwood's AMP specifying the facility's ash handling system monitoring procedures?

A5: No. Based on the information provided, EPA does not approve the AMP because Lynnwood's AMP does not include operating procedures to address the complete ash conveying system (including conveyor transfer points) or sufficient information for EPA to evaluate whether daily observations of the filter cake and observation of the loadout activities will be adequate to meet the requirements of 40 CFR 62.15955 and 62.15995 on an ongoing basis. Lynnwood may revise and resubmit their AMP.

Abstract for [FP00011]

Q1: Does EPA approve an alternative monitoring plan (AMP) to demonstrate compliance with the mercury (Hg) emission limit applicable to the fluidized bed sewage sludge incinerator (SSI) equipped with a W.L. Gore and Associates, Inc./EnviroCare International Sorbent Polymer Composite technology Hg control system in combination with a mist eliminator at the Vancouver Wastewater Treatment Plant (Vancouver) in Vancouver, Washington subject to 40 CFR part 62 subpart LLL?

A1: No. Based on the information provided, EPA does not approve Vancouver's AMP to monitor the Hg concentrations collected on the sorption media modules within the Hg control system because Vancouver was unable to establish an operating parameter limit (OPL) and averaging time for this operating parameter. EPA approves

monitoring and recording continuously the inlet temperature to the Hg control system and monitoring on a quarterly basis the Hg concentrations in the flue gas at the inlet and outlet of the system. Vancouver should submit a revised petition proposing Hg-specific OPLs that meet the requirements of 40 CFR 62.15965(b)(2)(iii), and Vancouver should consider whether the pressure drop across the Hg control system should be included as an OPL.

Q2: Does EPA approve an AMP to use a wet scrubber system and to practice good combustion practices for demonstrating compliance with the dioxins/furans emission limit applicable to Vancouver's SSI?

A2: No. Based on the information provided, EPA does not approve the AMP because it does not propose to monitor any operating parameters or establish OPLs for Vancouver's SSI to demonstrate compliance with the dioxins/furans emissions limit. Vancouver should submit a revised petition in accordance with 40 CFR 62.15965(b)(2)(i) through (v) to propose dioxins/furans OPLs associated with good combustion practices.

Q3: Does EPA approve Vancouver's AMP for its quench/venturi wet scrubber system to demonstrate compliance with the OPLs for scrubbers in table 4 to subpart LLL by monitoring the pressure drop across the tray scrubber, the total scrubber water flow rate from the quench, venturi, and tray scrubbers, and the pH of the tray scrubber effluent?

A3: No. EPA does not approve the AMP because Vancouver did not provide the information specified by 40 CFR 62.15995(e)(1) through (6). Vancouver's scrubber system consists of multiple scrubbers operated in series, and subpart LLL requires monitoring pressure drop, liquid flow rate, and pH of each wet scrubber in a scrubber system. Vancouver may revise and resubmit their AMP.

Q4: Does EPA approve Vancouver's AMP for monitoring the minimum combustion chamber operating temperature of the SSI using the average reading of three thermocouples that measure the combustion temperature within the fluidized sand bed of the SSI?

A4: Yes. Based on the information provided, EPA approves the AMP for the SSI because it meets the 40 CFR 62.15960 requirements.

Q5: Does EPA approve Vancouver's AMP for the facility's ash handling system monitoring procedures?

A5: No. Based on the information provided, EPA does not approve the AMP because it does not include

operating procedures to address the complete ash conveying system or sufficient information for EPA to evaluate whether daily observations of the ash filter cake to the roll-off bins and the weekly sampling of the moisture content of the ash filter cake will be adequate to meet the requirements of 40 CFR 62.15955 and 62.15995 on an ongoing basis. Vancouver may revise and resubmit their AMP.

Abstract for [FP00012]

Q1: Does EPA approve an alternative monitoring plan (AMP) to demonstrate compliance with the mercury (Hg) emission limit applicable to two multiple hearth sewage sludge incinerators (SSIs) equipped with a wet venturi scrubber and wet electrostatic precipitator (WESP) at the Bellingham Wastewater Treatment Plant (Bellingham) in Bellingham, Washington subject to 40 CFR part 62 subpart LLL?

A1: No. Based on the information provided, EPA does not approve the AMP because it proposes no monitoring of Hg-specific operating parameter limits (OPLs) and provides no information on the influence of the wet scrubber and WESP on Hg emissions. Bellingham should submit a revised petition proposing Hg-specific OPLs that adequately address 40 CFR 62.15965(b)(2)(i) through (v).

Q2: Does EPA approve an AMP to use an afterburner (thermal oxidizer), wet scrubber, WESP, and good combustion practices to comply with the dioxins/furans emission limit applicable to Bellingham's SSIs?

A2: No. Based on the information provided, EPA does not approve the AMP because it does not propose to monitor any OPLs to demonstrate compliance with the dioxins/furans emission limit, and it does not provide any information on the afterburner's influence on dioxins/furans emissions. Bellingham should submit a revised petition to adequately address 40 CFR 62.15965(b)(2)(i) through (v), including proposing dioxins/furans-specific OPLs associated with good combustion practices.

Q3: Does EPA approve Bellingham's AMP for its WESPs to demonstrate compliance with the OPLs for scrubbers in table 4 to subpart LLL by monitoring the secondary voltage, amperage, and hourly inlet water flow to the WESP?

A3: No. EPA does not approve monitoring hourly inlet water flow to the WESP in lieu of hourly outlet water flow from the WESP because Bellingham did not provide the information specified by 40 CFR 62.15995(e)(1) through (6). EPA

approves monitoring of the secondary voltage and amperage of the WESPs.

Q4: Does EPA approve Bellingham's AMP for its wet scrubber systems, to demonstrate compliance with the OPLs for scrubbers in table 4 to subpart LLL by monitoring the combined pressure drop across the venturi and tray wet scrubbers, the total scrubber water flow rate to both venturi and tray wet scrubbers, and the pH of the tray scrubber influent?

A4: No. EPA does not approve the AMP because Bellingham did not provide the information specified by 40 CFR 62.15995(e)(1) through (6). Bellingham's scrubber systems consist of multiple scrubbers operated in series, and subpart LLL requires parameter monitoring of each wet scrubber in a scrubber system.

Q5: Does EPA approve Bellingham's AMP for monitoring the minimum temperature of the afterburner combustion chamber of the SSIs using a temperature sensor located near the exit from the afterburner chamber upstream of the entry of the venturi scrubber?

A5: No. Based on the information provided, EPA does not approve the AMP because EPA needs more information regarding the design and performance specifications of the afterburner and supplemental burner to determine whether the temperature sensor provides a representative temperature of the afterburner combustion chamber.

Q6: Does EPA approve Bellingham's AMP for the facility's ash handling system monitoring procedures?

A6: No. Based on the information provided, EPA does not approve the AMP. The AMP must be revised to include the upstream portion of the ash handling system during Method 22 testing and to explain how Bellingham will properly conduct the Method 22 test during ash filling. Further, the AMP must provide information for EPA to evaluate if the ash handling units used to capture and control fugitive ash emissions, equipment inspections, visible fugitive ash emission checks, and monitoring of the fabric filter pressure drop and water usage in the ash handling system will meet on an ongoing basis the requirements of 40 CFR 62.15955 and 62.15995.

Abstract for [FP00013]

Q1: Does EPA approve an alternative monitoring plan (AMP) to demonstrate compliance with the operating parameter limits (OPLs) for the VenturiPak™ scrubber system for the multiple hearth sewage sludge incinerator (SSI) at the Anchorage Water & Wastewater Utility (Anchorage) in

Anchorage, Washington subject to 40 CFR part 62 subpart LLL?

A1: No. EPA does not approve the AMP to monitor the combined pressure drop across the impingement tray scrubber, venturi scrubber, separator tray scrubber, and mist eliminator; the combined liquid flow rate of all the scrubbers, and the combined pH of all scrubber liquid effluent. Anchorage's scrubber systems consist of multiple scrubbers operated in series, and subpart LLL requires monitoring pressure drop, liquid flow rate, and pH of each wet scrubber in a scrubber system; however, the AMP did not provide the information specified by 40 CFR 62.15995(e)(1) through (6). Anchorage may revise and resubmit their AMP.

Q2: Does EPA approve Anchorage's AMP for monitoring the minimum temperature of the afterburner combustion chamber of the SSIs using three temperature sensors in the afterburner combustion chamber?

A2: No. Based on the information provided, EPA does not approve the AMP because the AMP does not address how the temperature sensors are representative of control of the SSI exhaust emissions as specified in 40 CFR 62.15995(a)(1) or how the sensor locations are representative as specified in 40 CFR 62.15995(a)(3)(ii)(D)(1). Anchorage must resubmit a revised AMP that addresses all requirements in 40 CFR 62.15995(a)(1) through (8).

Q3: Does EPA approve Anchorage's AMP for the facility's ash handling system monitoring procedures?

A3: No. EPA does not approve the AMP because it does not provide sufficient detail to determine whether the ash handling system operating procedures meet the requirements of 40 CFR 62.15955 and 62.15995 or whether the visible emission limit is met on an ongoing basis. Further, the AMP does not clearly indicate whether all components of the ash handling system are included in the operating procedures and whether the Method 22 compliance testing will be performed on the entire ash handling system.

Q4: Does EPA approve Anchorage's AMP for to demonstrate compliance with the mercury (Hg) emission limit without the use of Hg-specific controls?

A4: No. EPA does not approve the AMP. Anchorage's AMP does not propose any Hg-specific OPLs or provide any information on how it controls Hg emissions from the SSI, including the extent to which Anchorage relies on maintaining the Hg concentration in the dry sludge feed below a certain level to comply with the Hg emission limit. Anchorage should

submit a revised petition regarding Hg-specific OPLs that adequately addresses 40 CFR 62.15965(b)(2)(i) through (v).

Q5: Does EPA approve Anchorage's AMP to demonstrate compliance with the dioxins/furans emission limit using good combustion practices and a series of wet scrubbers, but without the use of dioxins/furans-specific controls?

A5: No. EPA does not approve the AMP because it does not propose to monitor dioxins/furans-specific OPLs for its SSI to demonstrate compliance with the dioxins/furans emission limit, or to provide any information on the control of dioxins/furans from the SSI, such as the extent to which it relies on maintaining the temperature in the combustion zone above a certain level to comply with the dioxins/furans emission limit. Anchorage should submit a revised petition to propose dioxins/furans OPLs associated with good combustion practices that adequately addresses 40 CFR 62.15965(b)(2)(i) through (v).

Abstract for [M190004]

Q: Does EPA approve an alternative monitoring plan to change the sulfur dioxide (SO₂) operating limit to 300 ppm and monitor stack emissions with an SO₂ continuous emissions monitoring system (CEMS) that has a range of 0–300 ppm and a span of 0–200 ppm at Holcim (US) Inc.'s Portland cement plant (Portland Plant) in Florence, Colorado subject to NESHAP subpart LLL?

A: Yes. Based on the process information and test data submitted by Portland Plant, EPA conditionally approves an SO₂ operating limit of 300 ppm, which is more stringent than the 369 ppm SO₂ operating level determined by Portland Plant's 2018 hydrogen chloride (HCl) compliance test, and using an SO₂ CEMS with a range of 0–300 ppm and a span of 0–200 ppm. If future HCl performance testing indicates the SO₂ operating parameter limit should be less than 300 ppm, Portland Plant must establish a lower SO₂ operating parameter limit, and the SO₂ operating limit must be set, and later monitored, in the same units (PPMVD or PPMV). Further, should SO₂ levels increase above the 30-day rolling average SO₂ operating limit by 10 percent or more, then Portland Plant must undertake the actions required by 40 CFR 63.1349(b)(8)(x)(A) and (B) and 40 CFR 63.1350(l)(3)(i) and (ii).

Abstract for [M190005]

Q: Does EPA approve a modification of a previously approved Alternative Monitoring Plan (AMP) for Foley Cellulose LLC (Foley Mill) to revise the

location for methanol flow rate and density monitoring for measuring steam stripper treatment of pulping condensates at the Foley Mill in Perry, Florida covered by NESHAP subpart S?

A: Yes. Based upon flow rate and density monitoring data provided by Foley Mill, and supplemental information provided by Foley Mill regarding the size of the methanol storage tank and average amount of methanol burned on a normal production day, EPA approves the AMP modification for revising the location for methanol flow rate and density monitoring. The monitoring location would move from the current monitoring location for methanol flow rate and density where the rectified methanol stream enters the methanol storage tank to the outlet of the methanol storage tank for monitoring density and to the inlet of the methanol burners in the No. 2 and No. 4 recovery furnaces for monitoring flow rate. Because the average residence time for the tank contents is just under 8 days and the averaging period for determining compliance is based on a 15-day rolling average, EPA considers this method adequate for measuring the density and flow of the rectified methanol stream.

Abstract for [M190006]

Q: Does EPA approve an alternative monitoring plan (AMP) request from Packaging Corporation of America (PCA), for periods when the wet scrubber is not engaged due to maintenance activities, to monitor on an hourly basis the natural gas and bark feed rates to the Riley Combination Boiler and the Combustion Engineering Combination Boiler at PCA's facility in Valdosta, Georgia subject to NESHAP subpart DDDDD, in lieu of monitoring wet scrubber flow rate, pressure drop, and pH?

A: Yes. EPA conditionally approves the AMP for periods when only natural gas is fired in the boilers, provided that PCA demonstrates through existing data or emissions testing that the two boilers comply with the applicable particulate matter, mercury, and hydrogen chloride emission standards in NESHAP subpart DDDDD when the wet scrubber is not engaged.

Abstract for [M190007]

Q: Does EPA approve an alternative monitoring plan (AMP) to establish the fan amperage operating limits for the Ducon scrubbers installed on the smelt dissolving tanks subject to NESHAP subpart MM at International Paper's Kraft pulp mill in Prattville, Alabama (Prattville Mill) as the midpoint

between the no-load amperage value and the lowest of the 1-hour average fan amperage values determined during compliance testing?

A: Yes. Based on the information provided, EPA conditionally approves the AMP for Prattville Mill. EPA agrees that fluctuations in amperage for a constant speed fan are a function of atmospheric conditions, rather than of scrubber performance; therefore, setting the fan amperage limit at the lowest one-hour average fan amperage value based on compliance testing in accordance with 40 CFR

63.864(j)(5)(i)(A) could cause reporting of deviations that do not represent exceedances of the applicable emission limits. The AMP conditions applicable to each of Prattville Mill's scrubbers are specified in the EPA response letter.

Abstract for [M190008]

Q: Does EPA approve an alternative monitoring plan (AMP) to establish the fan amperage operating limits for the Ducon scrubbers installed on the smelt dissolving tanks subject to NESHAP subpart MM at International Paper's Kraft pulp mill (Savannah Mill) as the midpoint between the no-load amperage value and the lowest of the 1-hour average fan amperage values determined during compliance testing?

A: Yes. Based on the information provided, EPA conditionally approves the AMP for Savannah Mill. EPA agrees that fluctuations in amperage for a constant speed fan are a function of atmospheric conditions, rather than of scrubber performance; therefore, setting the fan amperage limit at the lowest one-hour average fan amperage value based on compliance testing in accordance with 40 CFR

63.864(j)(5)(i)(A) could cause reporting of deviations that do not represent exceedances of the applicable emission limits. The AMP conditions applicable to each of Savannah Mill's scrubbers are addressed in the EPA response letter.

Abstract for [M190009]

Q: Does EPA approve an alternative monitoring plan (AMP) to establish the fan amperage operating limits for the Ducon scrubbers installed on the smelt dissolving tanks subject to NESHAP subpart MM at International Paper's Kraft pulp mill in Selma, Alabama (Riverdale Mill) as the midpoint between the no-load amperage value and the lowest of the 1-hour average fan amperage values determined during compliance testing?

A: Yes. Based on the information provided, EPA conditionally approves the AMP for Riverdale Mill. EPA agrees that fluctuations in amperage for a

constant speed fan are a function of atmospheric conditions, rather than of scrubber performance; therefore, setting the fan amperage limit at the lowest one-hour average fan amperage value based on compliance testing in accordance with 40 CFR 63.864(j)(5)(i)(A) could cause reporting of deviations that do not represent exceedances of the applicable emission limits. The AMP conditions applicable to each of Riverdale Mill's scrubbers are specified in the EPA response letter.

Abstract for [M190010]

Q: Does EPA approve an alternative monitoring plan (AMP) to establish the fan amperage operating limits for the Ducon scrubbers installed on the smelt dissolving tanks subject to NESHAP subpart MM at International Paper's Kraft pulp mill in Redwood, Mississippi (Vicksburg Mill) as the midpoint between the no-load amperage value and the lowest of the 1-hour average fan amperage values determined during compliance testing?

A: Yes. Based on the information provided, EPA conditionally approves the AMP for Vicksburg Mill. EPA agrees that fluctuations in amperage for a constant speed fan are a function of atmospheric conditions, rather than of scrubber performance; therefore, setting the fan amperage limit at the lowest one-hour average fan amperage value based on compliance testing in accordance with 40 CFR 63.864(j)(5)(i)(A) could cause reporting of deviations that do not represent exceedances of the applicable emission limits. The AMP conditions applicable to each of Vicksburg Mill's scrubbers are specified in the EPA response letter.

Abstract for [M190011]

Q: Does EPA approve an alternative monitoring plan (AMP) to establish the fan amperage operating limits for the Ducon scrubbers installed on the smelt dissolving tanks subject to NESHAP subpart MM at International Paper's Kraft pulp mill in Eastover, South Carolina (Eastover Mill) as the midpoint between the no-load amperage value and the lowest of the 1-hour average fan amperage values determined during compliance testing, for IP's Eastover Mill?

A: Yes. Based on the information provided, EPA conditionally approves the AMP for Eastover Mill. EPA agrees that fluctuations in amperage for a constant speed fan are a function of atmospheric conditions, rather than of scrubber performance; therefore, setting the fan amperage limit at the lowest one-hour average fan amperage value based on compliance testing in

accordance with 40 CFR 63.864(j)(5)(i)(A) could cause reporting of deviations that do not represent exceedances of the applicable emission limits. The AMP conditions applicable to each of Eastover Mill's scrubbers are specified in the EPA response letter.

Abstract for [M190012]

Q: Does EPA approve an alternative monitoring plan (AMP) to establish the fan amperage operating limits for the Ducon scrubbers installed on the smelt dissolving tanks subject to NESHAP subpart MM at International Paper's Kraft pulp mill in Georgetown, South Carolina (Georgetown Mill) as the midpoint between the no-load amperage value and the lowest of the 1-hour average fan amperage values determined during compliance testing?

A: Yes. Based on the information provided, EPA conditionally approves the AMP for Georgetown Mill. EPA agrees that fluctuations in amperage for a constant speed fan are a function of atmospheric conditions, rather than of scrubber performance; therefore, setting the fan amperage limit at the lowest one-hour average fan amperage value based on compliance testing in accordance with 40 CFR

63.864(j)(5)(i)(A) could cause reporting of deviations that do not represent exceedances of the applicable emission limits. The AMP conditions applicable to each of Georgetown Mill's scrubbers are specified in the EPA response letter.

Abstract for [M190013]

Q: Does EPA approve an alternative monitoring plan (AMP) to establish the fan amperage operating limits for the Ducon scrubbers installed on the smelt dissolving tanks subject to NESHAP subpart MM at International Paper's Kraft pulp mill in Franklin, Virginia (Franklin Mill) as the midpoint between the no-load amperage value and the lowest of the 1-hour average fan amperage values determined during compliance testing?

A: Yes. Based on the information provided, EPA conditionally approves the AMP for Franklin Mill. EPA agrees that fluctuations in fan amperage for a constant speed fan are a function of atmospheric conditions, rather than of scrubber performance; therefore, setting the fan amperage limit at the lowest 1-hour average fan amperage value based on compliance testing in accordance with 40 CFR 63.864(j)(5)(i)(A) could cause reporting of deviations that do not represent exceedances of the applicable emission limits. The AMP conditions applicable to each of Franklin Mill's scrubbers are specified in the EPA response letter.

Abstract for [M190014]

Q: Does EPA approve an alternative monitoring plan (AMP) to identify periods of no flow to the regenerative thermal oxidizer and packed-bed scrubber by using process data regarding the end and start of batch production runs in lieu of monitoring flow at the inlet or outlet of this control system installed on UPM Pharmaceuticals, Inc. (UPM's) batch-operated pharmaceuticals manufacturing facility in Bristol, Tennessee subject to NESHAP subpart GGG?

A: Yes. Based on the information provided, EPA approves UPM's AMP for determining periods of no flow of emissions to the control system for the batch operation, for the purpose of removing periods of no flow when calculating daily average values of operating parameter averages for the control system. Because of the ductwork configuration at the facility, both process air and room air are collected and sent to the control system for reducing hazardous air pollutant (HAP) emissions; therefore, the air flow data at the inlet or outlet of the control system is not a reliable indicator of periods when there are no HAP emissions. EPA agrees with UPM's rationale for starting each period of no flow 15 minutes after the end of a batch, and UPM's plan to end each period of no flow when the next batch begins.

Abstract for [M190015]

Q1: Does EPA approve an alternative monitoring plan (AMP) to establish the fan amperage operating limits for the Ducon scrubbers installed on the smelt dissolving tanks subject to NESHAP subpart MM at International Paper's Kraft pulp mill in Columbus, Georgia (Columbus Mill) as the midpoint between the no-load amperage value and the lowest of the 1-hour average fan amperage values determined during compliance testing?

A1: Yes. Based on the information provided, EPA conditionally approves the AMP for Columbus Mill. EPA agrees that fluctuations in fan amperage for a constant speed fan are a function of atmospheric conditions, rather than of scrubber performance; therefore, setting the fan amperage limit at the lowest 1-hour average fan amperage value based on compliance testing in accordance with 40 CFR 63.864(j)(5)(i)(A) could cause reporting of deviations that do not represent exceedances of the applicable emission limits. The AMP conditions applicable to each of Columbus Mill's scrubbers are specified in the EPA response letter.

Q2: Does EPA also approve the AMP at Columbus Mill as an alternative to monitoring the pressure differential of the gas stream through the Ducon scrubbers installed on the smelt dissolving tanks which are also subject to NSPS subpart BB?

A2: Yes. Based on the information provided, EPA approves the AMP in lieu of monitoring differential pressure monitoring required in 40 CFR 60.282(b)(2)(i). Based on the operation of the Ducon scrubbers, fan amps are an appropriate alternative to pressure differential. The other requirements of subpart BB continue to apply.

Abstract for [M190016]

Q1: Does EPA approve an alternative monitoring plan (AMP) to establish the fan amperage operating limits for the Ducon UW-4 scrubbers installed on the smelt dissolving tanks subject to NESHAP subpart MM at International Paper's Kraft pulp mill in Riegelwood, North Carolina (Riegelwood Mill) as the midpoint between the no-load amperage value and the lowest of the 1-hour average fan amperage values determined during compliance testing?

A1: Yes. Based on the information provided, EPA conditionally approves the AMP for Riegelwood Mill. EPA agrees that fluctuations in fan amperage for a constant speed fan are a function of atmospheric conditions, rather than of scrubber performance; therefore, setting the fan amperage limit at the lowest 1-hour average fan amperage value based on compliance testing in accordance with 40 CFR

63.864(j)(5)(i)(A) could cause reporting of deviations that do not represent exceedances of the applicable emission limits. The AMP conditions applicable to each of Riegelwood Mill's scrubbers are specified in the EPA response letter.

Q2: Does EPA also approve the AMP at Riegelwood Mill as an alternative to monitoring the pressure differential of the gas stream through the Ducon scrubbers installed on the smelt dissolving tanks, which are also subject to NSPS subpart BB?

A2: Yes. Based on the information provided, EPA approves the AMP in lieu of monitoring differential pressure monitoring required in 40 CFR 60.282(b)(2)(i). Based on the operation of the Ducon scrubbers, fan amps are an appropriate alternative to pressure differential. The other requirements of subpart BB continue to apply.

Abstract for [M190017]

Q: Does EPA approve an alternative monitoring plan (AMP) to determine compliance with net heating value requirements of a cascading flare system

at CITGO Petroleum Corporation's Lake Charles Manufacturing Complex (CITGO LCMC) in Lake Charles, Louisiana subject to NESHAP subpart CC, to monitor the net heating value of the primary flare in lieu of monitoring the net heating value of secondary flare B-107?

A: Yes. Based on the information provided, EPA approves the AMP since monitoring the net heating value (NHV) at the primary flare will be comparable to monitoring the NHV at the secondary flare because the two flares are connected to a single flare gas header system such that discharges will be directed first to the primary flare. In addition, CITGO LCMC has elected to directly monitor the net heating value of the primary flare's vent gas following the methods provided in 40 CFR 63.670(j)(3).

Abstract for [M190018]

Q: Does EPA approve a waiver of the requirement to conduct triennial carbon monoxide (CO) performance tests under NESHAP subpart JJJJJJ due to the permanent cessation of coal use, for 18 boilers at nine facilities owned by Wisconsin Department of Administration (DOA) in Wisconsin subject to NESHAP subpart JJJJJJ?

A: Yes. Based on the information provided, the applicable regulations, and pursuant to 40 CFR 63.7(h), EPA conditionally approves the performance testing waiver for each of the 18 boilers identified in the EPA response letter. For each boiler that no longer fires coal, DOA must continue to monitor the excess oxygen level in the flue gas, and if the 30-day rolling average oxygen level is below the minimum oxygen level determined from the performance tests conducted in 2017, DOA must report the exceedance to EPA. If DOA combusts coal in any of the boilers after April 30, 2020, then DOA must conduct the CO performance test required by subpart JJJJ within 30 days and thereafter as required by subpart JJJJJJ.

Abstract for [M190019]

Q1: Does EPA determine that the final filtering step of a coating product to remove lumps/gels from the final product (epoxy dispersion process), which The Dow Chemical Company (Dow) is planning to start up at its facility in Midland, Michigan, meets the definition of "separation activity" in NESHAP subpart HHHHHH, such that NESHAP subpart HHHHHH would not apply and the epoxy dispersion process would potentially be subject to NESHAP subpart FFFF?

A1: No. Based on the information provided by Dow regarding the planned

epoxy dispersion process, EPA determines that the specific epoxy dispersion process that Dow plans for its Midland, Michigan facility is not considered a "separation activity" under subpart HHHHHH, therefore subpart HHHHHH would potentially apply to Dow's planned epoxy dispersion process, and NESHAP subpart FFFF would not apply. If Dow uses HAP-containing materials in the process, or uses HAP-containing cleaning solvents, the requirements of Subpart HHHHHH would apply to the epoxy dispersion process.

Q2: What is meant by "separation activity" in subpart HHHHHH?

A2: EPA is unable to answer Dow's broad question in this response regarding what is meant by "separation activity" in subpart HHHHHH.

Abstract for [M190020]

Q1: Does EPA approve test method modifications for EPA Reference Methods 5, 26A, and 29 of 40 CFR part 60, appendix A to use a Teflon® transfer line between the filter and the first impinger of the sampling train during comprehensive performance tests conducted using the three reference methods on Veolia ES Technical Solutions, LLC's (Veolia's) three hazardous waste incinerators (Unit #2, Unit #3, and Unit #4) in Illinois covered under NESHAP subpart EEE?

A1: Yes. EPA conditionally approves Veolia's test method modifications for EPA Reference Methods 5, 26A, and 29, provided that Veolia takes certain precautions to preserve the samples' integrity as specified in the EPA response letter.

Q2: Does EPA continue to approve Veolia's use of the fifteen test method modifications previously approved by EPA on November 16, 2009 and June 15, 2011?

A2: Yes. Because these test methods were previously approved by EPA, the methods may be used at Veolia's hazardous waste incinerators without any further action from EPA.

Abstract for [M190021]

Q: Does EPA approve an alternative monitoring plan (AMP) for monitoring intermittent lime addition to Baghouse #1 installed on two Group 1 reverberatory aluminum melting furnaces (RMF #1 and RMF #2) in lieu of using a pulse jet fabric filter with continuous lime injection at Huntington Aluminum Incorporated's (HAI's) facility in Huntington, Indiana covered under NESHAP subpart RRR?

A: No. Based on the information provided, EPA denies HAI's request for an AMP for intermittent lime injection

because HAI did not provide assurances, through data and information, that the proposed intermittent lime addition monitoring procedure is adequate to ensure that all relevant emissions standards will be met on a continuous basis. Additionally, the emissions testing data that is available to the Agency is insufficient to support the proposed alternative.

Abstract for [M200001]

Q: Does EPA approve the alternative monitoring plan (AMP) request from Nucor Steel Gallatin (Nucor) for the wet scrubber that controls hydrochloric acid emissions from a steel pickling line at the Nucor's facility in Ghent, Kentucky subject to NESHAP subpart CCC, because water is not provided at a continuous rate to this "water-efficient" scrubber?

A: Yes. EPA conditionally approves Nucor's AMP for the scrubber because conductivity is determined to be an acceptable indicator for acid strength in a wet scrubber. Because temperature fluctuations can interfere with accurate conductivity measurement, Nucor must coordinate with the Kentucky Department of Air Quality to ensure that the accuracy of conductivity measurements can be assured if there are any temperature variations and, if needed, additional assurance requirements to account for temperature fluctuations be included in Nucor's permit.

Abstract for [M200002]

Q1: Does EPA approve an alternative monitoring plan (AMP) for International Paper (IP) to conduct monitoring of opacity using a continuous opacity monitoring system (COMS) at a point in between the electrostatic precipitator (ESP) and wet scrubber in lieu of continuous parameter monitoring of the differential pressure, liquid flow rate, and scrubbing liquid supply pressure, for the wet scrubber installed to control particulate matter (PM) emissions for Lime Kiln No. 4 at IP's Riegelwood Mill in Riegelwood, North Carolina that is subject to NESHAP subpart MM and NSPS subpart BB, because the wet scrubber is not used to control emissions of PM?

A1: Yes. Based on the description of the process, the vent gas streams, the design of the vent gas controls, and the proposed opacity monitoring furnished by IP, EPA conditionally approves the AMP. Since the wet scrubber is not serving as a PM control device and compliance is demonstrated before the wet scrubber, it is not necessary to monitor the PM operating parameters for the wet scrubber per NESHAP

subpart MM and NSPS subpart BB. IP must maintain proper operation of the ESP automatic voltage controller per the requirements of NESHAP subpart MM, perform compliance testing after the ESP and prior to the wet scrubber, and continue to conduct PM testing per the requirements of NESHAP subpart MM and NSPS subpart BB.

Q2: Does EPA also approve under this AMP an alternative to the excess emissions criteria of NSPS Subpart BB, whereby excess emissions occur when the 6-minute average opacity measured by this COMS is greater than 20 percent and that a violation occurs when opacity exceeds 20 percent for one percent or more of the operating time in a semi-annual period?

A2: Yes. Based on the excess emissions criteria furnished by IP, the EPA agrees that these are the conditions where excess emissions will occur.

Abstract for [M200003]

Q: Does EPA approve use of an alternative monitoring plan (AMP) for New-Indy Catawba, LLC (New-Indy) to reduce the frequency of conducting leak detection and repair monitoring of any closed vent system, fixed roof cover, or enclosure that is characterized as unsafe or difficult to monitor at New-Indy's paper mill in Catawba, South Carolina that is subject to NESHAP subpart S?

A: Yes. EPA conditionally approves use of an AMP if the owner or operator determines that personnel performing the inspections and monitoring would be exposed to an imminent or potential danger, or if the equipment could not be inspected without elevating the inspection or monitoring personnel more than two meters above a support surface. In lieu of the current 30-day visual inspections of closed vent system components and pulping condensate closed-collection system and annual inspections to verify there are no detectable emissions from closed vent system components and condensate storage tanks, the AMP requires monitoring or inspections to be conducted at least once every five years, or more frequently if possible. New-Indy must submit a site-specific monitoring and inspection plan that identifies the equipment that are classified as unsafe or difficult to monitor and are therefore subject to the AMP, which we understand includes 0.4 percent of the leak detection and repair (LDAR) inspection points subject to Subpart S, including an explanation of why the component is unsafe to monitor or inspect and a description of how the equipment will be monitored or inspected during safe-to-monitor or safe-

to-inspect periods, as described in 40 CFR 63.148(i)(1) and (2).

Abstract for [M200004]

Q: Does EPA determine that operation of boilers SR4 and SR6 at the GSP Schiller LLC Station in Portsmouth, New Hampshire (GSP) to produce auxiliary steam (*i.e.*, not producing electricity) qualifies as a startup operation under NESHAP subpart UUUUU?

A: No. EPA determines that units SR4 and SR6 are not operating under startup conditions while burning residual fuel oil to produce auxiliary steam. For units SR4 and SR6, "startup" (as defined in subpart UUUUU) ends when steam is generated for any purpose, such as burning residual fuel oil to heat on-site residual fuel oil tanks or burning bituminous coal to generate electricity for sale.

Abstract for [M200005]

Q: Does EPA determine that the lithium ion battery manufacturing process at LG Chem Michigan (Holland) in Holland, Michigan is subject to NESHAP subpart VVVVVV?

A: No. Based on the information that was provided, EPA determines that the lithium ion battery manufacturing process is an area source subject to NESHAP subpart CCCCCC. In accordance with 40 CFR 63.11607, Holland's description of their cathode mixing line meets the definition of "paint and allied product manufacturing," the cathode slurry mixture produced by Holland meets the definition of "paints and allied products," and the nickel used in the process meets the definition of "material containing hazardous air pollutant (HAP)."

Abstract for [M200006]

Q: Does EPA approve an Alternative Monitoring Plan (AMP) for mercury (Hg) and chlorine (Cl) compliance testing to supplement the fuel types that result in worst-case Hg and Cl emissions (*i.e.*, wood and tire-derived fuel (TDF)) with No. 6 fuel oil in order to reach maximum operating load during the performance test, but remove the heat input of the No. 6 fuel oil when calculating the maximum Hg and Cl concentrations on a lb/MMBtu basis as required in 40 CFR 63.7530(b)(1), for the No. 2 Combination Boiler at New-Indy Catawba, LLC (New-Indy's) paper mill in Catawba, South Carolina that is subject to NESHAP subpart DDDDD?

A: Yes. Based on New-Indy's description of the process, equations for demonstrating compliance, and plans to maintain records of fuel usage following

the performance test according to 40 CFR 63.7540(a)(2), EPA approves the AMP for New-Indy's No. 2 Combination Boiler only. The proposed calculations will conservatively represent the highest input amounts of Cl and Hg during the compliance testing while firing bark, TDF, and No. 6 fuel oil because they account for the emissions resulting from the combustion of No. 6 fuel oil without providing credit for the heat input associated with No. 6 fuel oil.

Abstract for [M200007]

Q: Does EPA determine that a thermal chip dryer operated at 660 degrees Fahrenheit in order to remove water from aluminum shreds containing paint is not an affected source under NESHAP subpart RRR at Matalco (US), Inc.'s (Matalco's) secondary aluminum production facility in Lordstown, Ohio?

A: No. Based on the information provided, EPA determines that the thermal chip dryer operated in the proposed manner would be an affected source under NESHAP subpart RRR, consistent with the operations of a "scrap dryer/delacquering kiln/decoating kiln" as defined under subpart RRR and according to the record of subpart RRR. Further, Matalco does not sufficiently address the temperature level that would assure no emissions of hazardous air pollutants (HAPs), to support their belief that no hydrocarbon or dioxins/furans emissions would be produced while operating the dryer at 660 degrees Fahrenheit. During periods when the thermal chip dryer is processing aluminum shreds containing paint at or near 660 °F, the dryer must comply with the major source requirements in subpart RRR for a scrap dryer/delacquering kiln/decoating kiln.

Abstract for [M200008]

Q: Does EPA approve an alternative plan (AMP) to establish the fan amperage operating limits for the Ducon scrubbers installed on the smelt dissolving tanks subject to NESHAP subpart MM at International Paper Company's Kraft pulp mill in Bogalusa, Louisiana (Bogalusa Mill) as the midpoint between the no-load amperage value and the lowest of the 1-hour average fan amperage values determined during compliance testing?

A: Yes. Based on the information provided, EPA conditionally approves the AMP for Bogalusa Mill. EPA agrees that fluctuations in fan amperage for a constant speed fan are a function of atmospheric conditions, rather than of scrubber performance; therefore, setting the fan amperage limit at the lowest 1-hour average fan amperage value based on compliance testing in accordance

with 40 CFR 63.864(j)(5)(i)(A) could cause reporting of deviations that do not represent exceedances of the applicable emission limits. The AMP conditions applicable to each of Bogalusa Mill's scrubbers are specified in the EPA response letter.

Abstract for [M200009]

Q: Does EPA approve an alternative monitoring plan (AMP) to establish the fan amperage operating limits for the Ducon scrubbers installed on the smelt dissolving tanks subject to NESHAP subpart MM at International Paper Company's Kraft pulp mill in Mansfield, Louisiana (Mansfield Mill) as the midpoint between the no-load amperage value and the lowest of the 1-hour average fan amperage values determined during compliance testing?

A: Yes. Based on the information provided, EPA conditionally approves the AMP for Mansfield Mill. EPA agrees that fluctuations in fan amperage for a constant speed fan are a function of atmospheric conditions, rather than of scrubber performance; therefore, setting the fan amperage limit at the lowest 1-hour average fan amperage value based on compliance testing in accordance with 40 CFR 63.864(j)(5)(i)(A) could cause reporting of deviations that do not represent exceedances of the applicable emission limits. The AMP conditions applicable to each of Mansfield Mill's scrubbers are specified in the EPA response letter.

Abstract for [M200015]

Q: Does EPA agree with the American Petroleum Institute (API) that the Petroleum Refinery MACT Subpart CC, paragraphs 63.670 (d) and (e) mean that the NHVcz requirements only apply starting with the block that contains the 15th minute of a flare event and do not apply to the previous 15-minute block during which the event started which would not include more than a fraction of flow in that period?

A: Yes. The MACT CC regulation, paragraphs 63.670 (d) and (e) both state that the source must comply with applicable limits of combustion zone heat content and velocity when regulated materials are routed to the flare for at least 15 minutes. Therefore, the limits apply starting with the 15-minute block that includes a full 15 minutes of the flaring event. EPA recognizes that compliance with limits during the first 15-minute block of a flaring event could be problematic, at least for meeting the NHVcz minimum because if the release is of low BTU gas, a source might not have time to adjust supplement natural gas and/or adjust steam or air to correct the NHVcz,

especially if the event starts late in the 15-minute block.

Abstract for [Z190001]

Q: Does EPA approve an alternative monitoring plan (AMP) to conduct performance testing at the highest achievable engine load and demonstrate continuous compliance via pressure differential (*i.e.* pressure drop) measurements across the catalyst at plus or minus 10 percent of the highest achievable engine load established during the performance test, for twenty-four of Red Cedar Gathering Company's (Red Cedar's) stationary reciprocating internal combustion engines installed at five compressor stations (*i.e.*, Midway, Ponderosa, Spring Creek, Sambrito, and Trail Canyon) located on the Southern Ute Indian Reservation in Colorado subject to NESHAP subpart ZZZZ?

A: Yes. Based on information provided by Red Cedar regarding declining field conditions that necessitate engine operation at lower loads, EPA conditionally approves the AMP for the twenty-four engines identified in Table 1 of the EPA response letter. For each of the twenty-four engines, Red Cedar must maintain records on a daily basis of the engine load, and if an engine load increases or decreases by 10 percent from the highest achievable engine load during the performance test, Red Cedar must re-test and re-establish the baseline pressure drop across the catalyst.

Abstract for [Z200002]

Q: Does EPA approve an alternative monitoring plan (AMP) to establish the fan amperage operating limits for the Ducon UW-4 scrubbers installed on the smelt dissolving tanks subject to NESHAP subpart MM at Georgia-Pacific's Kraft pulp mill in Cedar Springs, Georgia (Cedar Springs Mill) as the midpoint between the no-load amperage value and the lowest of the 1-hour average fan amperage values determined during compliance testing?

A: Yes. Based on the information provided, EPA conditionally approves the AMP for Cedar Springs Mill. EPA agrees that fluctuations in amperage for a constant speed fan are a function of atmospheric conditions, rather than of scrubber performance; therefore, setting the fan amperage limit at the lowest 1-hour average fan amperage value based on compliance testing in accordance with 40 CFR 63.864(j)(5)(i)(A) could cause reporting of deviations that do not represent exceedances of the applicable emission limits. The AMP conditions for each of Cedar Springs Mill's scrubbers are specified in the EPA response letter.

Abstract for [Z200003]

Q: Does EPA approve an alternative monitoring plan (AMP) during periods of annual regenerative thermal oxidizer (RTO) shut down for maintenance and production curtailment for Group 2 asphalt storage tanks at CertainTeed's asphalt roofing manufacturing facility in Shakopee, Minnesota subject to NESHAP subpart LLLLL, to use a digital camera opacity technique (DCOT) or conduct EPA Method 9 and 22 testing on mist eliminators in lieu of parametric monitoring of mist eliminators or regenerative thermal oxidizers (RTOs)?

A: Yes. Based on the information provided, EPA conditionally approves an AMP for Group 2 asphalt storage tanks 1 through 6 and 11 (hereafter referred to as "AMP tanks") for periods up to 1,000 hours of RTO shutdown due to maintenance outage or production curtailment (where only AMP tanks are in operation) if no parametric monitoring is conducted on the mist eliminator; otherwise, CertainTeed must use a mist eliminator in series with an RTO and monitor RTO operating parameters to comply with the particulate matter standards in subpart LLLLL for the AMP tanks. Specifically, for RTO shutdown periods up to 750 hours, CertainTeed must use EPA Method 9 and/or EPA Method 22; and for RTO shutdown periods between 751 and 1,000 hours, CertainTeed must use the DCOT method outlined in Section 9.2 of the ASTM D7520-2016.

Alternatively, CertainTeed may use the DCOT method for an entire shutdown period up to 1,000 hours. If DCOT is used, CertainTeed must monitor once a shift or twice daily for a continuous 6-minute period and retain records for 5 years of the date, start time, end time, operator's name, and results for the readings and pictures. Otherwise, CertainTeed must conduct a six-minute Method 9 reading on the first day of shutdown and for each subsequent day a six-minute Method 9 or 22 reading once a shift or twice during daylight hours, and retain the original copies of the Method 9 and/or Method 22 sheets for 5 years. Any readings indicating emissions above the zero-opacity standard must be reported as deviations. The number of hours of RTO shutdown time must be tracked on a 12-month rolling sum. Further, during RTO shutdown periods, there may be no loading or unloading of AMP tanks, and the temperature of AMP tanks may not exceed 450 degrees Fahrenheit.

Abstract for [Z200004]

Q: Does EPA determine that frit production processes owned by Prince

Minerals, LLC (Prince) in Leesburg, Alabama meet the applicability criteria of NESHAP subparts BBBB BBBB, CCCCCC, and/or VVVVVV?

A: Based on the information provided, EPA determines that Prince's frit production processes meet the applicability criteria of subpart CCCCCC and do not meet the applicability criteria for subparts BBBB BBBB and VVVVVV. Subpart CCCCCC is applicable to Prince's facility because the subpart lists NAICS code 3255 and defines "paints and allied products manufacturing" as the production of paints and allied products (e.g., coatings) intended to "leave a dried film of solid material on a substrate," and the subpart defines "material containing HAP" as including any material containing nickel in amounts greater than 0.1 percent by weight. Subpart BBBB BBBB defines "chemical preparation" as being manufactured in a process described by the NAICS code 325998, so subpart BBBB BBBB is not applicable. Subpart VVVVVV includes an applicability exclusion for sources subject to Subpart CCCCCC, so subpart VVVVVV is not applicable.

Abstract for [Z200005]

Q: Does EPA approve an alternative monitoring plan (AMP) for six reciprocating internal combustion engines (RICEs) operating at less than 100 percent maximum load during compliance testing at Kinder Morgan Natural Gas Pipeline's Houston Central Gas Plant in Sheridan, Texas subject to NESHAP subpart ZZZZ?

A: Yes. Based on the information provided, EPA conditionally approves an AMP to conduct performance testing for engines COMP-1, COMP-35, and COMP-13C at a maximum engine load of 85 percent with subsequent monitoring required at 85 percent plus or minus 10 percent load, and for engines COMP-349, COMP-350, and COMP-8 at a maximum engine load of 90 percent with subsequent monitoring required at 90 percent plus or minus 10 percent load. EPA agrees that these six RICEs cannot operate at 100 percent plus or minus 10 percent operational load during compliance testing as specified in 40 CFR 63.6620(b)(2) due to site-specific operations. If operations change such that the maximum load of the engines exceeds these alternative lower maximum loads, the AMP will become null and void and retesting at the higher engine load will be required

to demonstrate compliance with subpart ZZZZ.

John Dombrowski,

Deputy Director, Office of Compliance, Office of Enforcement and Compliance Assurance.

[FR Doc. 2021-03489 Filed 2-19-21; 8:45 am]

BILLING CODE 6560-50-P

FEDERAL ELECTION COMMISSION

Sunshine Act Meetings

TIME AND DATE: Thursday, February 25, 2021 at 10:00 a.m.

PLACE: Virtual hearing. Note: Because of the covid-19 pandemic, we will conduct the hearing virtually. If you would like to access the hearing, see the instructions below.

STATUS: This hearing will be open to the public. To access the virtual hearing, go to the commission's website www.fec.gov and click on the banner to be taken to the hearing page.

MATTERS TO BE CONSIDERED: Repayment Hearing: Jill Stein for President.

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. 2021-03692 Filed 2-18-21; 4:15 pm]

BILLING CODE 6715-01-P

FEDERAL ELECTION COMMISSION

Sunshine Act Meetings

TIME AND DATE: Thursday, February 25, 2021 following the conclusion of the repayment hearing.

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 and click on the banner to be taken to the meeting page.

MATTERS TO BE CONSIDERED:

Draft Advisory Opinion 2021-02: Full Employment Now-Political Action Committee (FEC-PAC)

Draft Advisory Opinion 2021-03: National Republican Senatorial Committee (NRSC) and National Republican Congressional Committee (NRCC)

Audit Division Recommendation Memorandum on Dr. Raul Ruiz for Congress (A19-03) 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. 2021-03694 Filed 2-18-21; 4:15 pm]

BILLING CODE 6715-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA-2020-N-1652]

Agency Information Collection Activities; Submission for Office of Management and Budget Review; Comment Request; Dispute Resolution Procedures for Science-Based Decisions on Products by the Center for Veterinary Medicine

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA, Agency, or we) is announcing that a proposed collection of information has been submitted to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995.

DATES: Submit written comments (including recommendations) on the collection of information by March 24, 2021.

ADDRESSES: To ensure that comments on the information collection are received, OMB recommends that written comments be submitted to <https://www.reginfo.gov/public/do/PRAMain>. Find this particular information collection by selecting "Currently under Review—Open for Public Comments" or by using the search function. The OMB control number for this information collection is 0910-0566. Also include the FDA docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: Ila S. Mizrachi, Office of Operations, Food and Drug Administration, Three White Flint North, 10A-12M, 11601 Landsdown St., North Bethesda, MD 20852, 301-796-7726, PRASStaff@fda.hhs.gov.

SUPPLEMENTARY INFORMATION: In compliance with 44 U.S.C. 3507, FDA has submitted the following proposed collection of information to OMB for review and clearance.

Dispute Resolution Procedures for Science-Based Decisions on Products by the Center for Veterinary Medicine—21 CFR 10.75

OMB Control Number 0910–0566—Extension

The Center for Veterinary Medicine (CVM) Guidance for Industry (GFI) #79, “Dispute Resolution Procedures for Science-Based Decisions on Products Regulated by the Center for Veterinary Medicine” (<https://www.fda.gov/media/70279/download>), describes the process by which CVM formally resolves disputes relating to scientific

controversies. A scientific controversy involves issues concerning a specific product regulated by CVM related to matters of technical expertise and requires specialized education, training, or experience to be understood and resolved. The guidance details information on how CVM intends to apply provisions of existing regulations regarding internal review of Agency decisions. In addition, the guidance outlines the established procedures for persons who are sponsors, applicants, or manufacturers of animal drugs or other products regulated by CVM who wish to submit a request for review of a scientific dispute. When a sponsor, applicant, or manufacturer has a scientific disagreement with a written decision by CVM, they may submit a request for a review of that decision by

following the established procedures discussed in the guidance.

CVM encourages applicants to begin the resolution of science-based disputes with discussions with the review team/group, including the Team Leader or Division Director. The Center prefers that differences of opinion regarding science or science-based policy be resolved between the review team/group and the applicant. If the matter is not resolved by this preferred method, then CVM recommends that the applicant follow the procedures found in GFI #79.

In the **Federal Register** of August 18, 2020 (85 FR 50827), FDA published a 60-day notice requesting public comment on the proposed collection of information. No comments were received.

FDA estimates the burden of this collection of information as follows:

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN ¹

21 CFR part; activity	Number of respondents	Number of responses per respondent	Total annual responses	Average burden per response	Total hours
10.75, Request for review of a scientific dispute	1	4	4	10	40

¹ There are no capital costs or operating and maintenance costs associated with this collection of information.

We note that the 60-day notice included an inadvertent error in the estimated burden, which has been corrected in table 1. Based on a review of the information collection since our last request for OMB approval, we have made no adjustments to our burden estimate.

Dated: February 11, 2021.

Lauren K. Roth,
Acting Principal Associate Commissioner for Policy.

[FR Doc. 2021–03431 Filed 2–19–21; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2017–N–6931]

Agency Information Collection Activities; Proposed Collection; Comment Request; Current Good Manufacturing Practices and Related Regulations for Blood and Blood Components; and Requirements for Donation Testing, Donor Notification, and “Lookback”

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA, Agency, or we) is announcing an opportunity for public comment on the proposed collection of certain information by the Agency. Under the Paperwork Reduction Act of 1995 (PRA), Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, and to allow 60 days for public comment in response to the notice. This notice solicits comments on the collection of information requirements relating to FDA’s regulation of current good manufacturing practice (CGMP) and related regulations for blood and blood components; and requirements for donation testing, donor notification, and “lookback”.

DATES: Submit either electronic or written comments on the collection of information by April 23, 2021.

ADDRESSES: You may submit comments as follows. Please note that late, untimely filed comments will not be considered. Electronic comments must be submitted on or before April 23, 2021. The <https://www.regulations.gov> electronic filing system will accept comments until 11:59 p.m. Eastern Time at the end of April 23, 2021. Comments received by mail/hand delivery/courier (for written/paper submissions) will be

considered timely if they are postmarked or the delivery service acceptance receipt is on or before that date.

Electronic Submissions

Submit electronic comments in the following way:

- **Federal eRulemaking Portal:** <https://www.regulations.gov>. Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to <https://www.regulations.gov> will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else’s Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on <https://www.regulations.gov>.

- If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see “Written/Paper Submissions” and “Instructions”).

Written/Paper Submissions

Submit written/paper submissions as follows:

- *Mail/Hand Delivery/Courier (for written/paper submissions):* Dockets Management Staff (HFA-305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

- For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in “Instructions.”

Instructions: All submissions received must include the Docket No. FDA-2017-N-6931 for “Current Good Manufacturing Practices and Related Regulations for Blood and Blood Components; and Requirements for Donation Testing, Donor Notification, and ‘Lookback’.” Received comments, those filed in a timely manner (see **ADDRESSES**), will be placed in the docket and, except for those submitted as “Confidential Submissions,” publicly viewable at <https://www.regulations.gov> or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday, 240-402-7500.

- **Confidential Submissions**—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states “THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.” The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on <https://www.regulations.gov>. Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as “confidential.” Any information marked as “confidential” will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA’s posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: <https://www.govinfo.gov/content/pkg/FR-2015-09-18/pdf/2015-23389.pdf>.

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to <https://www.regulations.gov> and insert the docket number, found in brackets in the heading of this document, into the “Search” box and follow the prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852, 240-402-7500.

FOR FURTHER INFORMATION CONTACT:

Amber Sanford, Office of Operations, Food and Drug Administration, Three White Flint North, 10A-12M, 11601 Landsdown St., North Bethesda, MD 20852, 301-796-8867, PRAStaff@fda.hhs.gov.

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501-3521), Federal Agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. “Collection of information” is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes Agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal Agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, FDA is publishing notice of the proposed collection of information set forth in this document.

With respect to the following collection of information, FDA invites comments on these topics: (1) Whether the proposed collection of information is necessary for the proper performance of FDA’s functions, including whether the information will have practical utility; (2) the accuracy of FDA’s estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

Current Good Manufacturing Practices and Related Regulations for Blood and Blood Components; and Requirements for Donation Testing, Donor Notification, and “Lookback”

OMB Control Number 0910-0116—Extension

This information collection supports Agency regulations. All blood and blood components introduced or delivered for introduction into interstate commerce are subject to section 351(a) of the Public Health Service Act (PHS Act) (42 U.S.C. 262(a)). Section 351(a) requires that manufacturers of biological products, which include blood and blood components intended for further manufacturing into products, have a license, issued upon a demonstration that the product is safe, pure, and potent and that the manufacturing establishment meets all applicable standards, including those prescribed in the FDA regulations designed to ensure the continued safety, purity, and potency of the product. In addition, under section 361 of the PHS Act (42 U.S.C. 264), by delegation from the Secretary of Health and Human Services, FDA may make and enforce regulations necessary to prevent the introduction, transmission, or spread of communicable diseases from foreign countries into the States or possessions, or from one State or possession into any other State or possession.

Section 351(j) of the PHS Act states that the Federal Food, Drug, and Cosmetic Act (FD&C Act) also applies to biological products. Blood and blood components for transfusion or for further manufacturing into products are drugs, as that term is defined in section 201(g)(1) of the FD&C Act (21 U.S.C. 321(g)(1)). Because blood and blood components are drugs under the FD&C Act, blood and plasma establishments must comply with the provisions and related regulatory scheme of the FD&C Act. For example, under section 501 of the FD&C Act (21 U.S.C. 351(a)), drugs are deemed “adulterated” if the methods used in their manufacturing, processing, packing, or holding do not conform to CGMP and related regulations.

The CGMP regulations (part 606) (21 CFR part 606) and related regulations implement FDA’s statutory authority to ensure the safety, purity, and potency of blood and blood components. The public health objective in testing human blood donations for evidence of relevant transfusion-transmitted infections and in notifying donors is to prevent the transmission of relevant transfusion-transmitted infections. For example, the “lookback” requirements are intended

to help ensure the continued safety of the blood supply by providing necessary information to consignees of blood and blood components and appropriate notification of recipients of blood components that are at increased risk for transmitting human immunodeficiency virus (HIV) or hepatitis C virus (HCV) infection.

The information collection requirements in the CGMP, donation testing, donor notification, and “lookback” regulations provide FDA with the necessary information to perform its duty to ensure the safety, purity, and potency of blood and blood components. These requirements establish accountability and traceability in the processing and handling of blood and blood components and enable FDA to perform meaningful inspections.

The recordkeeping requirements serve preventive and remedial purposes. The third-party disclosure requirements identify various blood and blood components and important properties of the product, demonstrate that the CGMP requirements have been met, and facilitate the tracing of a product back to its original source. The reporting requirements inform FDA’s Center for Biologics Evaluation and Research (CBER) of certain information that may require immediate corrective action.

Respondents to this collection of information are licensed and unlicensed blood establishments that collect blood and blood components, including Source Plasma and Source Leukocytes, inspected by FDA, and transfusion services inspected by Centers for Medicare and Medicaid Services (CMS). Based on information received from CBER’s database systems, there are approximately 864 licensed Source Plasma establishments and approximately 1,789 licensed blood collection establishments, for an estimated total of 2,653 (864 + 1,789) licensed blood collection establishments. Also, there are an estimated total of 817 unlicensed, registered blood collection establishments for an approximate total of 3,470 collection establishments (864 + 1,789 + 817 = 3,470 establishments). Of these establishments, approximately 856 perform plateletpheresis (777) and leukapheresis (79). These establishments annually collect approximately 73.7 million units of Whole Blood and blood components, including Source Plasma and Source Leukocytes, and are required to follow FDA “lookback” procedures. In addition, there are another estimated 4,961 establishments that fall under the Clinical Laboratory Improvement Amendments of 1988 (CLIA) (formerly

referred to as facilities approved for Medicare reimbursement) that transfuse blood and blood components.

The following reporting and recordkeeping estimates are based on information provided by industry, CMS, and FDA experience. Based on information from industry, we estimate that there are approximately 53.5 million donations of Source Plasma from approximately 2.5 million donors and approximately 12.3 million donations of Whole Blood and apheresis Red Blood Cells including approximately 10,000 (approximately 0.081 percent of 12.3 million) autologous donations, from approximately 9 million donors. Assuming each autologous donor makes an average of 1.1 donations, FDA estimates that there are approximately 9,090 autologous donors (10,000 autologous/1.1 average donations).

FDA estimates that approximately 0.53 percent (56,000 ÷ 10,654,000) of the 77,000 donations that are donated specifically for the use of an identified recipient would be tested under the dedicated donors’ testing provisions in § 610.40(c)(1)(ii).

Under §§ 610.40(g)(2) and (h)(2)(ii)(A), Source Leukocytes, a licensed product that is used in the manufacture of interferon, which requires rapid preparation from blood, is currently shipped prior to completion of testing for evidence of relevant transfusion-transmitted infections. Shipments of Source Leukocytes are approved under a biologics license application and each shipment does not have to be reported to the Agency. Based on information from CBER’s database system, FDA receives less than one application per year from manufacturers of Source Leukocytes. However, for calculation purposes, we are estimating one application annually.

According to CBER’s database system, there are approximately 15 licensed manufacturers that ship known reactive human blood or blood components under §§ 610.40(h)(2)(ii)(C) and (D). FDA estimates that each manufacturer would ship an estimated 1 unit of human blood or blood components per month (12 per year) that would require two labels; one as reactive for the appropriate screening test under § 610.40(h)(2)(ii)(C), and the other stating the exempted use specifically approved by FDA under § 610.40(h)(2)(ii)(D).

Based on information received from industry, we estimate that approximately 7,500 donations that test reactive by a screening test for syphilis and are determined to be biological false positives by additional testing annually.

These units would be labeled according to § 610.40(h)(2)(vi).

Human blood or a blood component with a reactive screening test, as a component of a medical device, is an integral part of the medical device, *e.g.* a positive control for an in vitro diagnostic testing kit. It is usual and customary business practice for manufacturers to include on the container label a warning statement indicating that the product was manufactured from a donation found to be reactive for the identified relevant transfusion-transmitted infection(s). In addition, on the rare occasion when a human blood or blood component with a reactive screening test is the only component available for a medical device that does not require a reactive component, then a warning statement must be affixed to the medical device. To account for this rare occasion under § 610.42(a), we estimate that the warning statement would be necessary no more than once a year.

FDA estimates that approximately 3,100 repeat donors will test reactive on a screening test for HIV. We also estimate that an average of three components was made from each donation. Under §§ 610.46(a)(1)(ii)(B) and (a)(3), this estimate results in 9,300 (3,100 × 3) notifications of the HIV screening test results to consignees by collecting establishments for the purpose of quarantining affected blood and blood components, and another 9,300 (3,100 × 3) notifications to consignees of subsequent test results.

We estimate that approximately 4,961 consignees will be required under § 610.46(b)(3) to notify transfusion recipients, their legal representatives, or physicians of record an average of 0.35 times per year resulting in a total number of 1,755 (585 confirmed positive repeat donors × 3) notifications. Also, under § 610.46(b)(3), we estimate and include the time to gather test results and records for each recipient and to accommodate multiple attempts to contact the recipient.

Furthermore, we estimate that approximately 6,800 repeat donors per year would test reactive for antibody to HCV. Under §§ 610.47(a)(1)(ii)(B) and 610.47(a)(3), collecting establishments would notify the consignee 2 times for each of the 20,400 (6,800 × 3 components) components prepared from these donations, once for quarantine purposes and again with additional HCV test results for a total of 40,800 (2 × 20,400) notifications as an annual ongoing burden. Under § 610.47(b)(3), we estimate that approximately 4,961 consignees would notify approximately

2,050 recipients or their physicians of record annually.

Based on industry estimates, approximately 18.15 percent of approximately 14,018,000 million potential donors (2,544,000 donors) who come to donate annually are determined not to be eligible for donation prior to collection because of failure to satisfy eligibility criteria. It is the usual and customary business practice of approximately 2,606 (1,789 + 817) blood collecting establishments to notify onsite and to explain why the donor is determined not to be suitable for donating. Based on such available information, we estimate that two-thirds (1,737) of the 2,606 blood collecting establishments provided onsite additional information and counseling to a donor determined not to be eligible for donation as usual and customary business practice. Consequently, we estimate that only approximately one-third, or 869 of the 2,606 blood collecting establishments would need to provide, under § 630.40(a), additional information and onsite counseling to the estimated 848,000 (one-third of approximately 2,544,000) ineligible donors.

It is estimated that another 0.6 percent of 14,018,000 potential donors (84,108 donors) are deferred annually based on test results. We estimate that approximately 95 percent of the establishments that collect 99 percent of the blood and blood components notify donors who have reactive test results for HIV, Hepatitis B Virus, HCV, Human T-Lymphotropic Virus, and syphilis as

usual and customary business practice. Consequently, 5 percent of the 2,653 licensed establishments (133) collecting 1 percent (841) of the deferred donors (84,108) would notify donors under § 630.40(a).

As part of usual and customary business practice, collecting establishments notify an autologous donor's referring physician of reactive test results obtained during the donation process required under § 630.40(d)(1). However, we estimate that approximately 5 percent of the 1,789 blood collection establishments (89) may not notify the referring physicians of the estimated 2 percent of 10,000 autologous donors with the initial reactive test results (200) as their usual and customary business practice.

The recordkeeping chart reflects the estimate that approximately 95 percent of the recordkeepers, which collect 99 percent of the blood supply, have developed standard operating procedures (SOPs) as part of their customary and usual business practice. Establishments may minimize burdens associated with CGMP and related regulations by using model standards developed by industries' accreditation organizations. These accreditation organizations represent almost all registered blood establishments.

Under § 606.160(b)(1)(ix), we estimate the total annual records based on the approximately 2,544,000 donors determined not to be eligible to donate and each of the estimated 2,628,108 (2,544,000 + 84,108) donors deferred based on reactive test results for

evidence of infection because of relevant transfusion-transmitted infections. Under § 606.160(b)(1)(xi), only the 1,789 registered blood establishments collect autologous donations and, therefore, are required to notify referring physicians. We estimate that 4.5 percent of the 9,090 autologous donors (409) will be deferred under § 610.41, which in turn will lead to the notification of their referring physicians.

Under § 610.41(b), FDA estimates that there would be 25 submissions for requalification of donors each requiring 7 hours per submission. In addition, FDA estimates that there would be only 3 notifications for requalification of donors under § 630.35(b) which would also require 7 hours for each submission.

FDA permits the shipment of untested or incompletely tested human blood or blood components in rare medical emergencies and when appropriately documented (§ 610.40(g)(1)). We estimate the recordkeeping under § 610.40(g)(1) to be minimal with one or fewer occurrences per year. The reporting of test results to the consignee in § 610.40(g) is part of the usual and customary business practice of blood establishments.

The average burden per response (hours) and average burden per recordkeeping (hours) are based on estimates received from industry or FDA experience with similar reporting or recordkeeping requirements.

FDA estimates the burden of this collection of information as follows:

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN ¹

21 CFR section; activity	Number of respondents	Number of responses per respondent	Total annual responses	Average burden per response	Total hours
606.170(b) ² ; Donor or recipient fatality reporting	81	1	81	20	1,620
610.40(g)(2); Application for approval to ship	1	1	1	1	1
610.41(b); Request for requalification of donor	2,653	0.0094	25	7	175
610.40(h)(2)(ii)(A); Application for approval for shipment or use	1	1	1	1	1
630.35(b); Request for requalification of donor	2,653	0.00113	3	7	21
Total					1,818

¹ There are no capital costs or operating and maintenance costs associated with this collection of information.

² The reporting requirement in § 640.73, which addresses the reporting of fatal donor reactions, is included in the estimate for § 606.170(b).

TABLE 2—ESTIMATED ANNUAL RECORDKEEPING BURDEN ¹

21 CFR section; activity	Number of recordkeepers	Number of records per recordkeeper	Total annual records	Average burden per recordkeeping	Total hours
606.100(b); ² Maintenance of SOPs	⁵ 422	1	422	24	10,128
606.100(c); Records of investigations	⁵ 422	10	4,220	1	4,220
606.110(a); ³ Documentation donor's health permits platelethpheresis or leukapheresis.	⁶ 43	1	43	0.5 (30 minutes)	22
606.151(e); Records of emergency transfusions	⁵ 422	12	5,064	0.08 (5 minutes)	405

TABLE 2—ESTIMATED ANNUAL RECORDKEEPING BURDEN ¹—Continued

21 CFR section; activity	Number of recordkeepers	Number of records per recordkeeper	Total annual records	Average burden per recordkeeping	Total hours
606.160; ⁴ Records of collection, processing, compatibility testing, storage, and distribution of each unit of blood and blood components.	⁵ 422	907.583	383,000	0.75 (45 minutes)	287,250
606.160(b)(1)(viii); HIV consignee notification	1,789	10.4533	18,701	0.17 (10 minutes)	3,179
	4,961	3.6537	18,126	0.17 (10 minutes)	3,081
606.160(b)(1)(viii); HCV consignee notification	1,789	22.8060	40,800	0.17 (10 minutes)	6,936
	4,961	8.2241	40,800	0.17 (10 minutes)	6,936
HIV recipient notification	4,961	0.3538	1,755	0.17 (10 minutes)	298
HCV recipient notification	4,961	0.4132	2,050	0.17 (10 minutes)	349
606.160(b)(1)(ix); Donor notification records	3,470	757.380	2,628,109	0.05 (3 minutes)	131,405
606.160(b)(1)(xi); Physician notification records	1,789	0.2286	409	0.05 (3 minutes)	20.5
606.165; Distribution and receipt records	⁵ 422	907.583	383,000	0.08 (5 minutes)	30,640
606.170(a); Adverse reaction records	⁵ 422	12	5,064	1	5,064
610.40(g)(1); Documentation of medical emergency	3,470	1	3,470	0.5 (30 minutes)	1,735
630.15(a)(1)(ii)(B); Documentation required for dedicated donation.	1,789	1	1,789	1	1,789
630.20(c); Documentation of exceptional medical need	1,789	1	1,789	1	1,789
Total					495,247

¹ There are no capital costs or operating and maintenance costs associated with this collection of information.

² The recordkeeping requirements in §§ 606.171, 630.5(d), 630.10(c)(1) and (2), and 640.66, which address the maintenance of SOPs, are included in the estimate for § 606.100(b).

³ The recordkeeping requirements in § 640.27(b), which address the maintenance of donor health records for the plateletpheresis, are included in the estimate for § 606.110(a).

⁴ The recordkeeping requirements in §§ 606.110(a)(2), 630.5(b)(1)(i), 630.10(f)(2) and (4), 630.10(g)(2)(i), 630.15(a)(1)(ii)(A) and (B), 630.15(b)(2), (b)(7)(i) and (iii), 630.20(a) and (b), 640.21(e)(4), 640.25(b)(4) and (c)(1), 640.31(b), 640.33(b), 640.51(b), 640.53(b) and (c), 640.56(b) and (d), 630.15(b)(2), 640.65(b)(2)(i), 640.65(b)(2)(i), 640.71(b)(1), 640.72, 640.73, and 640.76(a) and (b), which address the maintenance of various records are included in the estimate for § 606.160.

⁵ Five percent of establishments that fall under CLIA that transfuse blood and components and FDA-registered blood establishments (0.05 × 4,961 + 3,470 = 422).

⁶ Five percent of plateletpheresis and leukapheresis establishments (0.05 × 856 = 43).

TABLE 3—ESTIMATED ANNUAL THIRD-PARTY DISCLOSURE BURDEN ¹

21 CFR section; activity	Number of respondents	Number of disclosures per respondent	Total annual disclosures	Average burden per disclosure	Total hours
606.145(c); Notification of bacterial contamination of platelets.	4,961	0.2822	1,400	0.02 (90 seconds).	28
606.170(a); Reports of transfusion reaction	² 422	12	5,064	0.5 (30 minutes)	2,532
610.40(c)(1)(ii); Labeling of donation dedicated to single recipient.	3,470	0.0395	137	0.08 (5 minutes)	11
610.40(h)(2)(ii)(C) and (D); Labeling of reactive blood and blood components.	15	12	180	0.2 (12 minutes)	36
610.40(h)(2)(vi); Labeling of reactive blood and blood components.	3,470	2.1614	7,500	0.08 (5 minutes)	600
610.42(a); Warning statement for medical devices	1	1	1	1	1
610.46(a)(1)(ii)(B); Notification to consignees to quarantine (HIV "lookback").	1,789	5.1984	9,300	0.17 (10 minutes)	1,581
610.46(a)(3); Notification to consignees of further testing.	1,789	5.1984	9,300	0.17 (10 minutes)	1,581
610.46(b)(3); Notification to recipients	4,961	0.3528	1,750	1	1,750
610.47(a)(1)(ii)(B); Notification to consignees to quarantine (HCV "lookback").	1,789	11.4030	20,400	0.17 (10 minutes)	3,468
610.47(a)(3); Notification to consignees of further testing.	1,789	11.4030	20,400	0.17 (10 minutes)	3,468
610.47(b)(3); Notification to recipients	4,961	0.4132	2,050	1	2,050
630.40(a); Notification of donors determined not to be eligible for donation.	869	975.834	848,000	0.08 (5 minutes)	67,840
630.40(a); Notification of donors deferred based on reactive test results.	133	6.323	841	1.5	1,262
630.40(d)(1); Notification to physician of autologous donor.	89	2.247	200	1	200
Total					86,408

¹ There are no capital costs or operating and maintenance costs associated with this collection of information.

² Five percent of establishments that fall under CLIA that transfuse blood and components and FDA-registered blood establishments (0.05 × 4,961 + 3,470 = 422).

The burden for this information collection has changed since the last OMB approval. FDA estimates that the total burden for this collection will be 583,473 hours (1,818 reporting + 495,247 recordkeeping + 86,408 third-party disclosure). Our estimated burden for the information collection reflects an overall increase of 79,024 hours. We attribute this adjustment to an increase in the number of blood establishments during the last 3 years.

Dated: February 10, 2021.

Lauren K. Roth,

Acting Principal Associate Commissioner for Policy.

[FR Doc. 2021-03434 Filed 2-19-21; 8:45 am]

BILLING CODE 4164-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Meeting of the Presidential Advisory Council on HIV/AIDS

AGENCY: Office of the Assistant Secretary for Health, Office of the Secretary, Department of Health and Human Services.

ACTION: Notice of a virtual meeting.

SUMMARY: As stipulated by the Federal Advisory Committee Act, the U.S. Department of Health and Human Service is hereby giving notice that the Presidential Advisory Council on HIV/AIDS (PACHA or the Council) will be holding the 70th full Council meeting utilizing virtual technology on March 8–March 9, 2021.

DATES: The meeting will be held on Monday, March 8 and Tuesday, March 9, 2021, from approximately 2:00 p.m. to 5:00 p.m. (ET) on both days. This meeting will be conducted utilizing virtual technology.

ADDRESSES: Instructions on attending this meeting virtually will be posted one week prior to the meeting at: <https://www.hiv.gov/federal-response/pacha/about-pacha>.

FOR FURTHER INFORMATION CONTACT: Ms. Caroline Talev, MPA, Public Health Analyst, Presidential Advisory Council on HIV/AIDS, 330 C Street SW, Room L609A, Washington, DC 20024; (202) 795-7622 or PACHA@hhs.gov. Additional information can be obtained by accessing the Council's page on the HIV.gov site at www.hiv.gov/pacha.

SUPPLEMENTARY INFORMATION: PACHA was established by Executive Order 12963, dated June 14, 1995, as amended by Executive Order 13009, dated June 14, 1996 and is currently operating under the authority given in Executive Order 13889, dated September 27, 2019.

The Council was established to provide advice, information, and recommendations to the Secretary regarding programs and policies intended to promote effective prevention and care of HIV infection and AIDS. The functions of the Council are solely advisory in nature.

The Council consists of not more than 25 members. Council members are selected from prominent community leaders with particular expertise in, or knowledge of, matters concerning HIV and AIDS, public health, global health, philanthropy, marketing or business, as well as other national leaders held in high esteem from other sectors of society. Council members are appointed by the Secretary or designee, in consultation with the White House. The meeting will be open to the public; a public comment session will be held during the meeting and PACHA members would like to hear from you, specifically:

(1) What are the most meaningful actions that can be taken to implement the HIV National Strategic Plan and improve implementation of the Ending the HIV Epidemic initiative at the national level and in your community to meet the goal of ending HIV; and

(2) How can domestic HIV/AIDS programs better meet the needs of underserved communities and address the systemic barriers that communities face in order to achieve the goals of the President's Executive Order Advancing Racial Equity and Support for Underserved Communities? The Executive Order can be found here: <https://www.whitehouse.gov/briefing-room/presidential-actions/2021/01/20/executive-order-advancing-racial-equity-and-support-for-underserved-communities-through-the-federal-government/>.

Pre-registration is required to provide public comment during the meeting. To pre-register to attend or to provide public comment, please send an email to PACHA@hhs.gov and include your name, organization, and title by close of business Monday, March 1, 2021. If you decide you would like to provide public comment but do not pre-register, you may submit your written statement by emailing PACHA@hhs.gov by close of business Tuesday, March 16, 2021. The meeting agenda will be posted on the PACHA page on HIV.gov at <https://www.hiv.gov/federal-response/pacha/about-pacha> prior to the meeting.

Dated: February 11, 2021.

B. Kaye Hayes,

Executive Director, Presidential Advisory Council on HIV/AIDS, Office of the Assistant Secretary for Health, Department of Health and Human Services.

[FR Doc. 2021-03524 Filed 2-19-21; 8:45 am]

BILLING CODE 4150-43-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

[Document Identifier: OS-0990-0330]

Agency Information Collection Request; 60-Day Public Comment Request

AGENCY: Office of the Secretary, HHS.

ACTION: Notice.

SUMMARY: In compliance with the requirement of the Paperwork Reduction Act of 1995, the Office of the Secretary (OS), Department of Health and Human Services, is publishing the following summary of a proposed collection for public comment.

DATES: Comments on the ICR must be received on or before April 23, 2021.

ADDRESSES: Submit your comments to Sherrette.Funn@hhs.gov or by calling (202) 795-7714.

FOR FURTHER INFORMATION CONTACT: When submitting comments or requesting information, please include the document identifier 0990-0330-60D, and project title for reference, to Sherrette Funn, the Reports Clearance Officer, Sherrette.funn@hhs.gov, or call 202-795-7714.

SUPPLEMENTARY INFORMATION: Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

Title of the Collection: Appellant Climate Survey.

Type of Collection: Revision.

OMB No. 0990-0330.

Abstract: The annual OMHA Appellant Climate Survey is a survey of Medicare beneficiaries, providers, suppliers, or their representatives who participated in a hearing before an Administrative Law Judge (ALJ) from OMHA. Appellants dissatisfied with the

outcome of their Level 2 Medicare appeal may request a hearing before an OMHA ALJ. The Appellant Climate Survey will be used to measure appellant satisfaction with their OMHA appeals experience, as opposed to their satisfaction with a specific ruling. OMHA was established by the Medicare Prescription Drug, Improvement, and Modernization Act (MMA) of 2003 (Pub. L. 108–173) and became operational on July 1, 2005. The MMA legislation and implementing regulations issued on March 8, 2007, instituted a number of changes in the appeals process. The MMA legislation also directed HHS to consider the feasibility of conducting hearings using telephone or video-

teleconference (VTC) technologies. In carrying out this mandate, OMHA makes use of both telephone and VTC to provide appellants with a vast nationwide network Field Offices for hearings. The first 3-year administration cycle of the OMHA survey began in fiscal year (FY) 2008, a second 3-year cycle began in FY 2011, a third 3-year cycle began in FY 2014, and a fourth 3-year cycle began in FY 2018. The survey will continue to be conducted annually over a 3-year period with the next data collection cycle beginning in FY 2021. Data collection instruments and recruitment materials will be offered in English and Spanish. The estimated total number of respondents per FY

starting FY 2021 is 800 respondents. The estimated total annual burden hours starting FY 2021 is 200 hours.

Type of respondent; frequency (annual, quarterly, monthly, etc.); and the affected public (individuals, public or private businesses, state or local governments, etc.) The survey will be conducted annually, and survey respondents will consist of Medicare beneficiaries and non-beneficiaries (i.e., providers, suppliers) who participated in a hearing before an OMHA ALJ. OMHA will draw a representative, nonredundant sample of appellants whose cases have been closed in the last 6 months.

ESTIMATED ANNUALIZED BURDEN HOUR TABLE

Type of respondent	Number of respondents	Number responses per respondent	Average burden per response (in hours)	Total burden hours
Beneficiaries	400	1	15/60	100
Non-Beneficiaries	400	1	15/60	100
Total	800	1	15/60	200

Sherrette A. Funn,
Office of the Secretary, Paperwork Reduction Act Reports Clearance Officer.
 [FR Doc. 2021–03527 Filed 2–19–21; 8:45 am]
BILLING CODE 4150–46–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Sixth Amendment to Declaration Under the Public Readiness and Emergency Preparedness Act for Medical Countermeasures Against COVID–19

AGENCY: Office of the Secretary, Department of Health and Human Services.

ACTION: Notice, correction.

SUMMARY: This document corrects one technical error that appeared in the final notice published in the **Federal Register** on February 2, 2021 entitled “Fifth Amendment to Declaration Under the Public Readiness and Emergency Preparedness Act for Medical Countermeasures Against COVID–19” and two technical errors that appeared in the final notice published in the **Federal Register** on Tuesday, February 16, 2021, entitled “Sixth Amendment to Declaration Under the Public Readiness and Emergency Preparedness Act for Medical Countermeasures Against COVID–19.”

DATES: The correction to the final notice entitled “Fifth Amendment to

Declaration Under the Public Readiness and Emergency Preparedness Act for Medical Countermeasures Against COVID–19” is effective February 2, 2021 and the corrections to the final notice entitled “Sixth Amendment to Declaration Under the Public Readiness and Emergency Preparedness Act for Medical Countermeasures Against COVID–19” are effective February 16, 2021.

FOR FURTHER INFORMATION CONTACT: L. Paige Ezernack, Office of the Assistant Secretary for Preparedness and Response, Office of the Secretary, Department of Health and Human Services, 200 Independence Avenue SW, Washington, DC 20201; 202–260–0365, paige.ezernack@hhs.gov.

Corrections

1. Correction to final notice published in the **Federal Register** on February 2, 2021 entitled “Fifth Amendment to Declaration Under the Public Readiness and Emergency Preparedness Act for Medical Countermeasures Against COVID–19.

Amendments to the Declaration, section 2, Effective Time Period, section XII; the sentence is corrected to read: “add to the end of the section: Liability protections for Qualified Persons under sections V(f) and V(g) of the declaration begin on February 2, 2021, and last through October 1, 2024.

2. Corrections to final notice published in the **Federal Register** on Tuesday, February 16, 2021, entitled “Sixth Amendment to Declaration Under the Public Readiness and Emergency Preparedness Act for Medical Countermeasures Against COVID–19.

Amendments to the Declaration, section 1, subsection V(h) is amended to read:

(h) Any member of a uniformed service (including members of the National Guard in a Title 32 duty status) (hereafter in this paragraph “service member”) or Federal government, employee, contractor, or volunteer who prescribes, administers, delivers, distributes or dispenses a Covered Countermeasure. Such Federal government service members, employees, contractors, or volunteers are qualified persons if the following requirement is met: The executive department or agency by or for which the Federal service member, employee, contractor, or volunteer is employed, contracts, or volunteers has authorized or could authorize that service member, employee, contractor, or volunteer to prescribe, administer, deliver, distribute, or dispense the Covered Countermeasure as any part of the duties or responsibilities of that service member, employee, contractor, or volunteer, even if those authorized duties or responsibilities ordinarily would not extend to members of the

public or otherwise would be more limited in scope than the activities such service member, employees, contractors, or volunteers are authorized to carry out under this declaration.

Amendments to the Declaration, section 2, Effective Time Period, section XII; the sentence is corrected to read: “add to the end of the section: Liability protections for Qualified Persons under section V(h) of the declaration begin on February 16, 2021, and last through October 1, 2024.

Wilma Robinson,

Deputy Executive Secretary, U.S. Department of Health and Human Services.

[FR Doc. 2021-03526 Filed 2-19-21; 8:45 am]

BILLING CODE 4150-37-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

[Document Identifier: OS-0955-0003]

Agency Father Generic Information Collection Request. 60-Day Public Comment Request

AGENCY: Office of the Secretary, HHS.

ACTION: Notice.

SUMMARY: In compliance with the requirement of the Paperwork Reduction Act of 1995, the Office of the Secretary (OS), Department of Health and Human Services, is publishing the following summary of a proposed collection for public comment.

DATES: Comments on the ICR must be received on or before April 23, 2021.

ADDRESSES: Submit your comments to *Sherrette.Funn@hhs.gov* or by calling (202) 795-7714.

FOR FURTHER INFORMATION CONTACT: When submitting comments or requesting information, please include

the document identifier 0955-0003-60D, and project title for reference, to Sherrette Funn, the Reports Clearance Officer, *Sherrette.funn@hhs.gov*, or call 202-795-7714.

SUPPLEMENTARY INFORMATION: Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency’s functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

Title of the Collection: Generic Clearance for the Collection of Qualitative Feedback on Agency Service Delivery.

Type of Collection: Father Generic ICR.

OMB No. 0955-0003—Office of the National Coordinator for Health Information Technology.

Abstract: The Office of the National Coordinator for Health Information Technology is seeking a three-year extension of OMB control number 0955-0003 to continue collecting routine customer feedback on agency service delivery. The proposed information collection activity provides a means to garner qualitative customer and stakeholder feedback in an efficient, timely manner, in accordance with the Administration’s commitment to improving service delivery. Qualitative feedback means information that provides useful insights on perceptions and opinions, and is not statistical

surveys that yield quantitative results that can be generalized to the population of study. This feedback will provide insights into customer or stakeholder perceptions, experiences, and expectations; provide an early warning of issues with the service; or focus attention on areas where communication, training, or changes in operations might improve delivery of products or services. These collections will allow for ongoing, collaborative, and actionable communications between the Agency and its customers and stakeholders. It will also allow feedback to contribute directly to the improvement of program management.

The solicitation of feedback will target areas such as timeliness, appropriateness, accuracy of information, courtesy, efficiency of service delivery, and resolution of issues with service delivery. Responses will be assessed to plan and inform efforts to improve or maintain the quality of service offered to the public. If this information is not collected, vital feedback from customers and stakeholders on the Agency’s services will be unavailable.

Affected Public: Individuals, households, professionals, and/or the public/private sector.

Average estimates for the next three years:

Estimated Total Number of Respondents: 10,000.

Expected Annual Number of Activities: 6.

Average Number of Respondents per Activity: 1,667.

Frequency of Response: Once per Activity.

Average Minutes per Response: 7.

Total Burden Hours: 1,167.

ANNUALIZED BURDEN HOUR TABLE

	Number of respondents	Number of responses per respondents	Average burden per response	Total burden hours
10,000		1	7/60	1,167
Total				1,167

Dated: February 10, 2021.

Sherrette A. Funn,

Office of the Secretary, Paperwork Reduction Act Reports Clearance Officer.

[FR Doc. 2021-03531 Filed 2-19-21; 8:45 am]

BILLING CODE 4150-45-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as

amended, notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning

individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Drug Discovery, Neurodegenerative Disorders and Modeling.

Date: March 19, 2021.

Time: 11:00 a.m. to 2:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Vanessa S. Boyce, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Rm. 4185, MSC 7850, Bethesda, MD 20892, (301) 402-3726, boycevs@csr.nih.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Small Business: The Cancer Drug Development & Therapeutics (CDDT).

Date: March 22-23, 2021.

Time: 9:00 a.m. to 7:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Lilia Topol, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6192, MSC 7804, Bethesda, MD 20892, 301-451-0131, ltopol@mail.nih.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Small Business: Psychopathology, Substance Abuse, and Community-Based Interventions Across the Lifespan.

Date: March 23, 2021.

Time: 9:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Elia K. Ortenberg, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3108, MSC 7816, Bethesda, MD 20892, (301) 827-7189, femiaee@csr.nih.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Small Business: Psychopathology, Substance Abuse, and Community-Based Interventions Across the Lifespan.

Date: March 23, 2021.

Time: 9:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: David Erik Pollio, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institute of Health, 6701 Rockledge Drive, Room 1006F, Bethesda, MD 20892, 301-594-4002, polliode@csr.nih.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Small Business: Non-Viral Anti-Infective Therapeutics.

Date: March 23, 2021.

Time: 9:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Bidyottam Mittra, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, Bethesda, MD 20894, 301.435.0000, bidyottam.mittra@nih.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Small Business: SBIR/STTR Commercialization Readiness Pilot (CRP) Program.

Date: March 23, 2021.

Time: 9:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Allen Richon, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6184, MSC 7892, Bethesda, MD 20892, 301-379-9351, allen.richon@nih.hhs.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Pulmonary Diseases.

Date: March 23-24, 2021.

Time: 9:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: George M. Barnas, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4220, MSC 7818, Bethesda, MD 20892, 301-435-0696, barnasg@csr.nih.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Small Business: Drug Discovery Involving the Nervous System.

Date: March 23-24, 2021.

Time: 9:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Lai Yee Leung, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 1011D Bethesda, MD 20892, (301) 435-1042, leungl2@csr.nih.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel; PAR-19-326: Reducing Stigma to Improve HIV/AIDS Prevention, Treatment and Care in Low- and Middle-Income Countries.

Date: March 23, 2021.

Time: 10:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Janetta Lun, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institute of Health, 6701 Rockledge Drive, Room1007E, Bethesda, MD 20892, 301-443-3655, janetta.lun@nih.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel; PAR-19-326: Reducing Stigma to Improve HIV/AIDS Prevention, Treatment and Care in Low- and Middle-Income Countries.

Date: March 23, 2021.

Time: 10:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Marc Boulay, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3110, MSC 7808, Bethesda, MD 20892, (301) 300-6541, boulaymg@csr.nih.gov.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393-93.396, 93.837-93.844, 93.846-93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: February 17, 2021.

Ronald J. Livingston, Jr.,
Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2021-03525 Filed 2-19-21; 8:45 am]

BILLING CODE 4140-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Diabetes and Digestive and Kidney Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel; CURE Research Consortium Review.

Date: March 17-18, 2021.

Time: 10:00 a.m. to 1:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Two Democracy Plaza, 6707 Democracy Boulevard, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Ann A. Jerkins, Ph.D., Scientific Review Officer, Review Branch, DEA, NIDDK, National Institutes of Health, 6707 Democracy Boulevard, Room 7119, Bethesda, MD 20892-5452, (301) 594-2242, jerkinsa@nidk.nih.gov.

(Catalogue of Federal Domestic Assistance Program Nos. 93.847, Diabetes, Endocrinology and Metabolic Research; 93.848, Digestive Diseases and Nutrition Research; 93.849, Kidney Diseases, Urology and Hematology Research, National Institutes of Health, HHS)

Dated: February 16, 2021.

Miguelina Perez,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2021-03438 Filed 2-19-21; 8:45 am]

BILLING CODE 4140-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Heart, Lung, and Blood Institute; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Heart, Lung, and Blood Institute Special Emphasis Panel; Program Project Grant Review.

Date: March 18, 2021.

Time: 2:00 p.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6705 Rockledge Drive, Bethesda, MD 20817 (Virtual Meeting).

Contact Person: Susan Wohler Sunnarborg, Ph.D., Scientific Review Officer, Office of Scientific Review/DERA, National Heart, Lung, and Blood Institute, National Institutes of Health, 6705 Rockledge Drive, Room 208-Z, Bethesda, MD 20892, (301) 827-7987, susan.sunnarborg@nih.gov.

Name of Committee: National Heart, Lung, and Blood Institute Special Emphasis Panel; Blood Brain Barrier.

Date: March 29, 2021.

Time: 9:30 a.m. to 4:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6705 Rockledge Drive, Bethesda, MD 20817 (Virtual Meeting).

Contact Person: Michael P. Reilly, Ph.D., Scientific Review Officer, Office of Scientific Review/DERA, National Heart, Lung, and Blood Institute, National Institutes of Health, 6705 Rockledge Drive, Room 208-Z, Bethesda, MD 20892, (301) 827-7975, reillymp@nhlbi.nih.gov.

(Catalogue of Federal Domestic Assistance Program Nos. 93.233, National Center for Sleep Disorders Research; 93.837, Heart and Vascular Diseases Research; 93.838, Lung Diseases Research; 93.839, Blood Diseases and Resources Research, National Institutes of Health, HHS)

Dated: February 16, 2021.

David W. Freeman,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2021-03446 Filed 2-19-21; 8:45 am]

BILLING CODE 4140-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel; NIH Director's New Innovator Award Program (DP2).

Date: March 16-17, 2021.

Time: 9:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892.

Contact Person: Eugene Carstea, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4130, MSC 7818, Bethesda, MD 20892, (301) 408-9756, carsteae@csr.nih.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel; PAR20-117:

Maximizing Investigators' Research Award (MIRA) for Early Stage Investigators (R35—Clinical Trial Optional).

Date: March 18-19, 2021.

Time: 10:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Ruth S. Grossman, DDS Scientific Review Officer, Office Scientific Review, National Institute of General Medical Sciences, National Institutes of Health, 45 Center Drive, Room 3AN12J, Bethesda, MD 20892, 240-393-8511, grossmanrs@mail.nih.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Small Business: Innovative Immunology Research.

Date: March 22, 2021.

Time: 10:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Shinako Takada, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, 301-402-9448, shinako.takada@nih.gov.

Name of Committee: Infectious Diseases and Immunology A Integrated Review Group; HIV Molecular Virology, Cell Biology, and Drug Development Study Section.

Date: March 22-23, 2021.

Time: 10:00 a.m. to 7:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Kenneth A. Roebuck, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5214, MSC 7852, Bethesda, MD 20892, (301) 435-1166, roebuckk@csr.nih.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel RFA Panel; Resource-Related Research Projects for Development of Animal Models and Related Materials.

Date: March 22, 2021.

Time: 1:00 p.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Emily Foley, Ph.D., Scientific Review Officer, Center for Scientific Review, 6701 Rockledge Drive, Bethesda, MD 20747, 301-435-0627, emily.foley@nih.gov.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393-93.396, 93.837-93.844, 93.846-93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: February 16, 2021.

David W. Freeman,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2021-03444 Filed 2-19-21; 8:45 am]

BILLING CODE 4140-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Biomedical Imaging and Bioengineering; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of a meeting of the National Institute of Biomedical Imaging and Bioengineering Special Emphasis Panel.

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 Biomedical Imaging and Bioengineering Special Emphasis Panel P41 NCBIB Review B-SEP.

Date: March 25-27, 2021.

Time: 10:00 a.m. to 7:00 p.m.

Agenda: To review and evaluate grant applications³

Place: National Institutes of Health, Democracy II, 6707 Democracy Blvd., Bethesda, MD 20892, (Virtual Meeting).

Contact Person: Ruixia Zhou, Ph.D., Scientific Review Officer, National Institute of Biomedical Imaging and Bioengineering, National Institutes of Health, 6707 Democracy Blvd., Suite 957, Bethesda, MD 20892, (301) 496-4773, zhour@mail.nih.gov.

(Catalogue of Federal Domestic Assistance Program Nos. 93.866, National Institute of Biomedical Imaging and Bioengineering, National Institutes of Health, HHS)

Dated: February 16, 2021.

Ronald J. Livingston, Jr.,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2021-03479 Filed 2-19-21; 8:45 am]

BILLING CODE 4140-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Diabetes and Digestive and Kidney Diseases; 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 Diabetes and Digestive and Kidney Diseases Special Emphasis Panel; Optimizing Therapy for Hypothalamic Obesity by Developing a Personalized, Adaptive Intervention (U34).

Date: April 1, 2021.

Time: 1:00 p.m. to 2:15 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Two Democracy Plaza, 6707 Democracy Boulevard, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Paul A. Rushing, Ph.D., Scientific Review Officer, Review Branch, DEA, NIDDK, National Institutes of Health, 6707 Democracy Boulevard, Room 7345, Bethesda, MD 20892-5452, (301) 594-8895, rushingp@extra.niddk.nih.gov.

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel; Generating Multidisciplinary Resources that Accelerate Understanding of how Neuronal Cilia Mediate Body Weight Homeostasis (RC2).

Date: April 2, 2021.

Time: 1:00 p.m. to 2:15 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Two Democracy Plaza, 6707 Democracy Boulevard, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Paul A. Rushing, Ph.D., Scientific Review Officer, Review Branch, DEA, NIDDK, National Institutes of Health, 6707 Democracy Boulevard, Room 7345, Bethesda, MD 20892-5452, (301) 594-8895, rushingp@extra.niddk.nih.gov.

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel; Gastrointestinal-Related NIDDK Multi-Center Clinical Study Implementation Planning Cooperative Agreements (U34 Clinical Trial Optional).

Date: April 7, 2021.

Time: 10:15 a.m. to 1:15 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Two Democracy Plaza, 6707 Democracy Boulevard, Bethesda, MD 20892 (Video Meeting).

Contact Person: Paul A. Rushing, Ph.D., Scientific Review Officer, Review Branch, DEA, NIDDK, National Institutes of Health, 6707 Democracy Boulevard, Room 7345, Bethesda, MD 20892-5452, (301) 594-8895, rushingp@extra.niddk.nih.gov.

(Catalogue of Federal Domestic Assistance Program Nos. 93.847, Diabetes, Endocrinology and Metabolic Research; 93.848, Digestive Diseases and Nutrition Research; 93.849, Kidney Diseases, Urology and Hematology Research, National Institutes of Health, HHS)

Dated: February 16, 2021.

Miguelina Perez,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2021-03440 Filed 2-19-21; 8:45 am]

BILLING CODE 4140-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Diabetes and Digestive and Kidney Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel; LIVER RC2.

Date: April 13, 2021.

Time: 2:00 p.m. to 4:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Two Democracy Plaza, 6707 Democracy Boulevard, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Maria E. Davila-Bloom, Ph.D., Scientific Review Officer, Review Branch, DEA, NIDDK, National Institutes of Health, 6707 Democracy Boulevard, Room 7017 Bethesda, MD 20892-5452, (301) 594-7637, davila-bloomm@extra.niddk.nih.gov.

(Catalogue of Federal Domestic Assistance Program Nos. 93.847, Diabetes,

Endocrinology and Metabolic Research; 93.848, Digestive Diseases and Nutrition Research; 93.849, Kidney Diseases, Urology and Hematology Research, National Institutes of Health, HHS)

Dated: February 16, 2021.

Miguelina Perez,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2021-03439 Filed 2-19-21; 8:45 am]

BILLING CODE 4140-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Population Sciences and Epidemiology Integrated Review Group; Behavioral Genetics and Epidemiology Study Section.

Date: March 10–11, 2021.

Time: 9:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Andrew Loudon, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3137, Bethesda, MD 20817, 301-435-1985, [loudenan@csr.nih.gov](mailto:louden@csr.nih.gov).

Name of Committee: Center for Scientific Review Special Emphasis Panel; Small Business: Respiratory Sciences.

Date: March 11–12, 2021.

Time: 8:00 a.m. to 11:30 a.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Xiang-Ning Li, MD, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5112, MSC 7854, Bethesda, MD 20892, 301-435-1744, lixiang@csr.nih.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel;

Understanding the Pathophysiology and Treatment of Neural Dysfunctions Following Chemotherapy and Radiation in Cancers.

Date: March 12, 2021.

Time: 1:00 p.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Wei-Qin Zhao, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5181, MSC 7846, Bethesda, MD 20892-7846, 301-827-7238, zhaow@csr.nih.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Small Business: Musculoskeletal, Orthopedic, Oral, Rehabilitation and Dermatology.

Date: March 16–17, 2021.

Time: 8:30 a.m. to 5:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Aftab A Ansari, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4108, MSC 7814, Bethesda, MD 20892, (301) 237-9931, ansaria@csr.nih.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Small Business: Instrumentation, Environmental and Occupational Safety.

Date: March 16–17, 2021.

Time: 9:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Marie-Jose Belanger, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Rm. 6188, MSC 7804, Bethesda, MD 20892, (301) 435-1267, belangerm@csr.nih.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Small Business: Radiation Therapy and Biology SBIR/STTR.

Date: March 16–17, 2021.

Time: 9:00 a.m. to 8:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Bo Hong, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6194, MSC 7804, Bethesda, MD 20892, 301-996-6208, hongb@csr.nih.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Special Topics: Brain Imaging, Modeling and Computational Analyses.

Date: March 16, 2021.

Time: 10:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Susan Gillmor, Ph.D., Scientific Review Officer, National Institutes of Health, Center for Scientific Review, 6701 Rockledge Drive, Bethesda, MD 20892, 240-762-3076, susan.gillmor@nih.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Fellowships: Surgical Sciences, Biomedical Imaging and Bioengineering.

Date: March 16, 2021.

Time: 10:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Weihua Luo, MD, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5114, MSC 7854, Bethesda, MD 20892, 301-435-1170, luow@csr.nih.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Fellowships: Oncology.

Date: March 16–17, 2021.

Time: 10:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Reigh-Yi Lin, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Rm. 4152, MSC 7846, Bethesda, MD 20892, (301) 827-6009, lin.reigh-yi@nih.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Fellowships: Population Sciences and Epidemiology.

Date: March 16–17, 2021.

Time: 10:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Heidi B. Friedman, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 1012A, MSC 7770, Bethesda, MD 20892, (301) 379-5632, hfriedman@csr.nih.gov.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: February 16, 2021.

David W. Freeman,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2021-03447 Filed 2-19-21; 8:45 am]

BILLING CODE 4140-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Minority Health and Health Disparities; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Minority Health and Health Disparities Special Emphasis Panel; Special Emphasis Panel for Review of Conference Grant (R13) Applications.

Date: March 16, 2021.

Time: 1:00 p.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Gateway Plaza, 7201 Wisconsin Avenue, Bethesda, MD 20817 (Virtual Meeting).

Contact Person: Maryline Laude-Sharp, Ph.D., Scientific Review Officer, Office of Extramural Research Administration, National Institute on Minority Health and Health Disparities, National Institutes of Health, Gateway Building, 7201 Wisconsin Avenue, Ste. 525, MSC. 9206, Bethesda, MD 20892, 301-451-9536, miaudesharp@mail.nih.gov.

Name of Committee: National Institute on Minority Health and Health Disparities Special Emphasis Panel; Multi-Level HIV Prevention Interventions for Individuals at the Highest Risk of HIV Infection (R01).

Date: March 22, 2021.

Time: 1:00 p.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Gateway Plaza, 7201 Wisconsin Avenue, Bethesda, MD 20817 (Virtual Meeting).

Contact Person: Deborah Ismond, Ph.D., Scientific Review Officer, Office of Extramural Research Administration, National Institute on Minority Health and Health Disparities, National Institutes of Health, Gateway Building, 7201 Wisconsin Avenue, Bethesda, MD 20892, 301-402-1366, ismondldr@mail.nih.gov.

Name of Committee: National Institute on Minority Health and Health Disparities Special Emphasis Panel; Promoting Viral Suppression among Individuals from Health Disparity Populations Engaged in HIV Care Review Meeting.

Date: March 26, 2021.

Time: 1:00 p.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Gateway Plaza, 7201 Wisconsin Avenue, Bethesda, MD 20817 (Virtual Meeting).

Contact Person: Richard C. Palmer, DrPH, Health Scientist Administrator, Office of Extramural Research Administration, National Institute on Minority Health and Health Disparities, National Institutes of Health, Gateway Building, 7201 Wisconsin Avenue, Bethesda, MD 20892, 301-451-2432, richard.palmer@nih.gov.

Dated: February 16, 2021.

David W. Freeman,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2021-03445 Filed 2-19-21; 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 Cancer Etiology Study Section, March 1, 2021, 10:00 a.m. to 5:00 p.m., National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD, 20892, which was published in the **Federal Register** on February 4, 2021, V-86 Pg. 8215.

The meeting notice is amended to change the meeting's date from March 1, 2021 to March 2, 2021. The meeting start time and end time remains the same. The meeting is closed to the public.

Dated: February 16, 2021.

David W. Freeman,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2021-03448 Filed 2-19-21; 8:45 am]

BILLING CODE 4140-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Office of the Director, National Institutes of Health; Amended Notice of Meeting

Notice is hereby given of a change in the virtual meeting of the Advisory Committee to the Director, February 26, 2021, 3:00 p.m. to 5:30 p.m., which was published in the **Federal Register** on February 5, 2021, 85 FR 8371.

The meeting notice is amended to revise the agenda topic as follows: Update on NIH Workforce Plans to

Promote Diversity, Equity, and Inclusion in Biomedical Research and Request for Concept Clearance for an FY21 Common Fund Initiative.

Dated: February 16, 2021.

David W. Freeman,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2021-03441 Filed 2-19-21; 8:45 am]

BILLING CODE 4140-01-P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

[1651-NEW]

Pre-Screening Interview Questionnaire Form

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

ACTION: 60-Day notice and request for comments; new collection of information.

SUMMARY: The Department of Homeland Security, U.S. Customs and Border Protection 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 (PRA). The information collection is published in the **Federal Register** to obtain comments from the public and affected agencies.

DATES: Comments are encouraged and must be submitted (no later than April 23, 2021) to be assured of consideration.

ADDRESSES: Written comments and/or suggestions regarding the item(s) contained in this notice must include the OMB Control Number 1651-NEW in the subject line and the agency name. Please use the following method to submit comments:

Email. Submit comments to: CBP_PRA@cbp.dhs.gov.

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

FOR FURTHER INFORMATION CONTACT: Requests for additional PRA information should be directed to Seth Renkema, Chief, Economic Impact Analysis Branch, U.S. Customs and Border Protection, Office of Trade, Regulations and Rulings, 90 K Street NE, 10th Floor, Washington, DC 20229-1177, Telephone number 202-325-0056 or via email CBP_PRA@cbp.dhs.gov. Please note that the contact information provided here is solely for questions

regarding this notice. Individuals seeking information about other CBP programs should contact the CBP National Customer Service Center at 877-227-5511, (TTY) 1-800-877-8339, or CBP website at <https://www.cbp.gov/>.

SUPPLEMENTARY INFORMATION: CBP invites the general public and other Federal agencies to comment on the proposed and/or continuing information collections pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). This process is conducted in accordance with 5 CFR 1320.8. Written comments and suggestions from the public and affected agencies should address one or more of the following four points: (1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) 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) suggestions to enhance the quality, utility, and clarity of the information to be collected; and (4) suggestions to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses. The comments that are submitted will be summarized and included in the request for approval. All comments will become a matter of public record.

Overview of This Information Collection

Title: Pre-Screening Interview Questionnaire Form
OMB Number: 1651-NEW.
Form Number: CBP Form 75.
Current Actions: New.
Type of Review: New.
Affected Public: Individuals.
Abstract: The CBP Office of Professional Responsibility (OPR), Personnel Security Division (PSD), conducts employment Background Investigations (BI), and periodic reinvestigations, to support determinations of an individual's suitability for employment or continued employment, eligibility to occupy a national security position, eligibility for access to classified information, eligibility for unescorted access to DHS/CBP facilities, or access to DHS/CBP information technology systems. OPR PSD conducts these investigations whether the individual is an applicant

or employee, and these terms apply to both federal and contractor employees and selectees.

The Anti-Border Corruption Act of 2010 requires that all CBP law enforcement officers successfully complete a polygraph examination before entering on duty.¹ CBP polygraph resources are limited and CBP seeks to schedule candidates who have the best probability of successfully completing the exam. Prior to a polygraph exam, CBP employs a number of touchpoints where applicants may be screened out based on disqualifying responses to suitability or eligibility questions.

In response to these concerns, and following an audit by the Department of Homeland Security's Office of the Inspector General (DHSOIG), OPR PSD created a plan to conduct Pre-Screening Interviews for all law enforcement candidates prior to scheduling a mandatory polygraph examination.

Type of Information Collection: CBP Form 75

Estimated Number of Respondents: 20,000.

Estimated Number of Annual Responses per Respondent: 10.

Estimated Number of Total Annual Responses: 200,000.

Estimated Time per Response: 2 minutes.

Estimated Total Annual Burden Hours: 6,667.

Dated: February 17, 2021.

Seth D. Renkema,

Branch Chief, Economic Impact Analysis Branch, U.S. Customs and Border Protection.

[FR Doc. 2021-03477 Filed 2-19-21; 8:45 am]

BILLING CODE P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS-WASO-NRNHL-DTS#-31517;
PPWOCRADIO, PCU00RP14.R50000]

National Register of Historic Places; Notification of Pending Nominations and Related Actions

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: The National Park Service is soliciting electronic comments on the significance of properties nominated before February 13, 2021, for listing or related actions in the National Register of Historic Places.

DATES: Comments should be submitted electronically by March 9, 2021.

¹ See Public Law 111-376, 124 Stat. 4104, section 3; 6 U.S.C. 221(a).

ADDRESSES: Comments are encouraged to be submitted electronically to National_Register_Submissions@nps.gov with the subject line "Public Comment on <property or proposed district name, (County) State>." If you have no access to email you may send them via U.S. Postal Service and all other carriers to the National Register of Historic Places, National Park Service, 1849 C Street NW, MS 7228, Washington, DC 20240.

SUPPLEMENTARY INFORMATION: The properties listed in this notice are being considered for listing or related actions in the National Register of Historic Places. Nominations for their consideration were received by the National Park Service before February 13, 2021. Pursuant to Section 60.13 of 36 CFR part 60, comments are being accepted concerning the significance of the nominated properties under the National Register criteria for evaluation.

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.

Nominations submitted by State or Tribal Historic Preservation Officers:

ARIZONA

Gila County

Hunt Farmstead Historic District, 4223 North Pine Creek Rd., Pine, SG100006316

CALIFORNIA

San Mateo County

Redwood City Woman's Club, 149 Clinton St., Redwood City, SG100006305

GEORGIA

Chatham County

Curry-Miller-Byrd Cottage, 16 Izlar Ave., Tybee Island, SG100006313

Fulton County

Collier-Perry-Bentley House, 1649 Lady Marian Ln., Atlanta, SG100006307
Hotel Clermont, 789 Ponce de Leon Ave. NE, Atlanta, SG100006310

MASSACHUSETTS

Barnstable County

Aptucxet Trading Post Museum Historic District, 6 Aptucxet Rd., Bourne, SG100006301

MONTANA

Fergus County

Symmes Park Missile, Symmes Park, NE Main St., Lewistown, SG100006312

Yellowstone County

McKinley Elementary School, 820 North 31st St., Billings, SG100006311

NEW YORK**Dutchess County**

Wethersfield, 257 Pugsley Hill Rd., Amenia, SG100006303

Suffolk County

Bumpstead, John, House (Boundary Decrease), (Huntington Town MRA), 473 Woodbury Rd., Cold Spring Harbor, BC100006306

Tioga County

Nichols Park, Main St., Spencer, SG100006304

OHIO**Muskingum County**

Muskingum College Campus Historic District (Boundary Increase), Roughly bounded by Stormont St. & College, Lakeside, and Stadium Drs., New Concord, BC100006314

TEXAS**Lubbock County**

Great Plains Life Insurance Company Building, 1220 Broadway, Lubbock, SG100006318

Additional documentation has been received for the following resources:

KENTUCKY**Bourbon County**

Duncan Avenue Historic District (Additional Documentation), Duncan, Stoner, Vine, and Massie Sts., Paris, AD88000902

VIRGINIA**Montgomery County**

North Fork Valley Rural Historic District (Additional Documentation), (Montgomery County MPS), Along the North Fork of the Roanoke R. from the Roanoke Co. line south to Lusters Gate, Blacksburg vicinity, AD90002169

Nominations submitted by Federal Preservation Officers:

The State Historic Preservation Officer reviewed the following nominations and responded to the Federal Preservation Officer within 45 days of receipt of the nominations and supports listing the properties in the National Register of Historic Places.

ARIZONA**Maricopa County**

U.S. Courthouse and Federal Office Building, 230 North 1st Ave., Phoenix, SG100006317

NEW YORK**Suffolk County**

Fort Terry Historic District, Plum Island, Southold vicinity, SG100006315

Authority: Section 60.13 of 36 CFR part 60

Dated: February 17, 2021.

Paul Lusignan,

Historian, Acting Chief, National Register of Historic Places/National Historic Landmarks Program.

[FR Doc. 2021-03505 Filed 2-19-21; 8:45 am]

BILLING CODE 4312-52-P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337-TA-1248]

Certain Cellular Communications Infrastructure Systems, Components Thereof, and Products Containing Same; Institution of Investigation

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that a complaint was filed with the U.S. International Trade Commission on January 15, 2021, under section 337 of the Tariff Act of 1930, as amended, on behalf of Ericsson Inc. of Plano, Texas and Telefonaktiebolaget LM Ericsson of Sweden. The complaint alleges violations of section 337 based upon the importation into the United States, the sale for importation, and the sale within the United States after importation of certain cellular communications infrastructure systems, components thereof, and products containing same by reason of infringement of certain claims of U.S. Patent No. 9,037,166 (“the ‘166 patent”); U.S. Patent No. 9,107,082 (“the ‘082 patent”); U.S. Patent No. 9,509,605 (“the ‘605 patent”); and U.S. Patent No. 9,692,682 (“the ‘682 patent”). The complaint further alleges that an industry in the United States exists or is in the process of being established as required by the applicable Federal Statute. The complainants request that the Commission institute an investigation and, after the investigation, issue a limited exclusion order and cease and desist orders.

ADDRESSES: The complaint, except for any confidential information contained therein, may be viewed on the Commission’s electronic docket (EDIS) at <https://edis.usitc.gov>. For help accessing EDIS, please email EDIS3Help@usitc.gov. Hearing impaired individuals are advised that information on this matter can be obtained by contacting the Commission’s TDD terminal on (202) 205-1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at (202) 205-

2000. General information concerning the Commission may also be obtained by accessing its internet server at <https://www.usitc.gov>.

FOR FURTHER INFORMATION CONTACT:

Katherine Hiner, Office of the Secretary, Docket Services Division, U.S. International Trade Commission, telephone (202) 205-1802.

SUPPLEMENTARY INFORMATION:

Authority: The authority for institution of this investigation is contained in section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, and in section 210.10 of the Commission’s Rules of Practice and Procedure, 19 CFR 210.10 (2020). Scope of Investigation: Having considered the complaint, the U.S. International Trade Commission, on February 16, 2021, *Ordered That*—

(1) Pursuant to subsection (b) of section 337 of the Tariff Act of 1930, as amended, an investigation be instituted to determine whether there is a violation of subsection (a)(1)(B) of section 337 in the importation into the United States, the sale for importation, or the sale within the United States after importation of certain products identified in paragraph (2) by reason of infringement of one or more of claims 5 and 13 of the ‘166 patent; claims 1, 11, and 16 of the ‘082 patent; claims 1, 2, 7, 8, 10, 11, 14, 17, and 18 of the ‘605 patent; and claims 1-3, 6, 7, 12-17, and 24-27 of the ‘682 patent, and whether an industry in the United States exists or is in the process of being established as required by subsection (a)(2) of section 337;

(2) Pursuant to section 210.10(b)(1) of the Commission’s Rules of Practice and Procedure, 19 CFR 210.10(b)(1), the plain language description of the accused products or category of accused products, which defines the scope of the investigation, is “cellular communications infrastructure systems, base stations, and core network systems, components thereof, and products containing same”;

(3) For the purpose of the investigation so instituted, the following are hereby named as parties upon which this notice of investigation shall be served:

(a) The complainants are:
Ericsson Inc., 6300 Legacy Drive, Plano, TX 75024
Telefonaktiebolaget LM Ericsson, Torshamnsgatan 11, Kista, SE-164 83, Stockholm, Sweden

(b) The respondents are the following entities alleged to be in violation of section 337, and are the parties upon which the complaint is to be served:

Samsung Electronics Co. Ltd., 129 Samsung-Ro, Maetan-3dong,, Yoeongtong-Gu, Suwon, Gyeonggi 16677, Republic of Korea

Samsung Electronics America, Inc., 85 Challenger Road, Ridgefield Park, NJ 07660-2112

(4) For the investigation so instituted, the Chief Administrative Law Judge, U.S. International Trade Commission, shall designate the presiding Administrative Law Judge.

The Office of Unfair Import Investigations will not participate as a party to this investigation.

Responses to the complaint and the notice of investigation must be submitted by the named respondents in accordance with section 210.13 of the Commission's Rules of Practice and Procedure, 19 CFR 210.13. Pursuant to 19 CFR 201.16(e) and 210.13(a), as amended in 85 FR 15798 (March 19, 2020), such responses will be considered by the Commission if received not later than 20 days after the date of service by the complainants of the complaint and the notice of investigation. Extensions of time for submitting responses to the complaint and the notice of investigation will not be granted unless good cause therefor is shown.

Failure of a respondent to file a timely response to each allegation in the complaint and in this notice may be deemed to constitute a waiver of the right to appear and contest the allegations of the complaint and this notice, and to authorize the administrative law judge and the Commission, without further notice to the respondent, to find the facts to be as alleged in the complaint and this notice and to enter an initial determination and a final determination containing such findings, and may result in the issuance of an exclusion order or a cease and desist order or both directed against the respondent.

By order of the Commission.

Issued: February 16, 2021.

Lisa Barton,

Secretary to the Commission.

[FR Doc. 2021-03465 Filed 2-19-21; 8:45 am]

BILLING CODE 7020-02-P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731-TA-1092 (Second Review)]

Diamond Sawblades and Parts Thereof From China; Scheduling of Expedited Five-Year Review

AGENCY: United States International Trade Commission.

ACTION: Notice.

SUMMARY: The Commission hereby gives notice of the scheduling of an expedited review pursuant to the Tariff Act of 1930 ("the Act") to determine whether revocation of the antidumping duty order on diamond sawblades and parts thereof from China would be likely to lead to continuation or recurrence of material injury within a reasonably foreseeable time.

DATES: November 6, 2020.

FOR FURTHER INFORMATION CONTACT: Stamen Borisson (202-205-3125), Office of Investigations, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202-205-1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202-205-2000. General information concerning the Commission may also be obtained by accessing its internet server (<https://www.usitc.gov>). The public record for these reviews may be viewed on the Commission's electronic docket (EDIS) at <https://edis.usitc.gov>.

SUPPLEMENTARY INFORMATION:

Background.—On November 6, 2020, the Commission determined that the domestic interested party group response to its notice of institution (85 FR 46719, August 3, 2020) of the subject five-year review was adequate and that the respondent interested party group response was inadequate. The Commission did not find any other circumstances that would warrant conducting a full review.¹ Accordingly, the Commission determined that it would conduct an expedited review pursuant to section 751(c)(3) of the Tariff Act of 1930 (19 U.S.C. 1675(c)(3)).

For further information concerning the conduct of this review and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A and B

(19 CFR part 201), and part 207, subparts A, D, E, and F (19 CFR part 207).

Please note the Secretary's Office will accept only electronic filings at this time. Filings must be made through the Commission's Electronic Document Information System (EDIS, <https://edis.usitc.gov>). No in-person paper-based filings or paper copies of any electronic filings will be accepted until further notice.

Staff report.—A staff report containing information concerning the subject matter of the review was placed in the nonpublic record on February 17, 2021, and made available to persons on the Administrative Protective Order service list for this review. A public version will be issued thereafter, pursuant to section 207.62(d)(4) of the Commission's rules.

Written submissions.—As provided in section 207.62(d) of the Commission's rules, interested parties that are parties to the review and that have provided individually adequate responses to the notice of institution,² and any party other than an interested party to the review may file written comments with the Secretary on what determination the Commission should reach in the review. Comments are due on or before February 25, 2021 and may not contain new factual information. Any person that is neither a party to the five-year review nor an interested party may submit a brief written statement (which shall not contain any new factual information) pertinent to the review by February 25, 2021. However, should the Department of Commerce ("Commerce") extend the time limit for its completion of the final results of its review, the deadline for comments (which may not contain new factual information) on Commerce's final results is three business days after the issuance of Commerce's results. If comments contain business proprietary information (BPI), they must conform with the requirements of sections 201.6, 207.3, and 207.7 of the Commission's rules. The Commission's *Handbook on Filing Procedures*, available on the Commission's website at https://www.usitc.gov/documents/handbook_on_filing_procedures.pdf, elaborates

¹ A record of the Commissioners' votes is available from the Office of the Secretary and at the Commission's website.

² The Commission has found the response to its notice of institution from the Diamond Sawblades Manufacturers' Coalition ("DSMC"), an association of two U.S. producers of diamond sawblades and parts thereof (Diamond Products Limited and Western Saw, Inc.), to be individually adequate for its members. Comments from other interested parties will not be accepted (*see* 19 CFR 207.62(d)(2)).

upon the Commission's procedures with respect to filings.

In accordance with sections 201.16(c) and 207.3 of the rules, each document filed by a party to the review must be served on all other parties to the review (as identified by either the public or BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

Determination.—The Commission has determined this review is extraordinarily complicated and therefore has determined to exercise its authority to extend the review period by up to 90 days pursuant to 19 U.S.C. 1675(c)(5)(B).

Authority: This review is being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.62 of the Commission's rules.

By order of the Commission.

Issued: February 16, 2021.

Lisa Barton,

Secretary to the Commission.

[FR Doc. 2021-03464 Filed 2-19-21; 8:45 am]

BILLING CODE 7020-02-P

DEPARTMENT OF JUSTICE

Bureau of Alcohol, Tobacco, Firearms and Explosives

[OMB Number 1140-NEW]

Agency Information Collection Activities; Proposed eCollection of eComments Requested; New Information Collection; Reciprocity Questionnaire—ATF Form 8620.59

AGENCY: Bureau of Alcohol, Tobacco, Firearms and Explosives, Department of Justice.

ACTION: 30-day notice.

SUMMARY: The Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF), Department of Justice (DOJ) will submit 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 an additional 30 days until March 24, 2021.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to www.reginfo.gov/public/do/PRAMain. Find this particular information collection by selecting "Currently under 30-day Review—Open for Public Comments" or by using the search function.

SUPPLEMENTARY INFORMATION: Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Evaluate whether and if so how the quality, utility, and clarity of the information to be collected can be enhanced; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of This Information Collection

(1) *Type of Information Collection:* New information collection.

(2) *The Title of the Form/Collection:* Reciprocity Questionnaire.

(3) *The agency form number, if any, and the applicable component of the Department sponsoring the collection:* Form number: ATF Form 8620.59.

Component: Bureau of Alcohol, Tobacco, Firearms and Explosives, U.S. Department of Justice.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:*

Primary: Individuals or households.

Other: None.

Abstract: The Reciprocity Questionnaire—ATF Form 8620.59 will be used to determine if a candidate for Federal or contractor employment at the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) previously completed a background investigation and/or polygraph examination with another Federal agency.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* An estimated 2,000 respondents will utilize the form annually, and it will take each respondent approximately 10 minutes to complete their responses.

(6) *An estimate of the total public burden (in hours) associated with the*

collection: The estimated annual public burden associated with this collection is 333 hours, which is equal to 2000 (# of respondents) * .16667 (10 minutes).

If additional information is required contact: Melody Braswell, Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Two Constitution Square, 145 N Street NE, 3E.405A, Washington, DC 20530.

Dated: February 17, 2021.

Melody Braswell,

Department Clearance Officer for PRA, U.S. Department of Justice.

[FR Doc. 2021-03500 Filed 2-19-21; 8:45 am]

BILLING CODE 4410-FY-P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[OMB Number 1117-NEW]

Agency Information Collection Activities; Proposed eCollection, eComments Requested; New Collection; Registration for CSA Data-Use Request

AGENCY: Drug Enforcement Administration, Department of Justice.

ACTION: 30-Day notice.

SUMMARY: The Department of Justice (DOJ), Drug Enforcement Administration (DEA), will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995.

DATES: Comments are encouraged and will be accepted for 30 days until March 24, 2021.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to www.reginfo.gov/public/do/PRAMain. Find this particular information collection by selecting "Currently under 30-day Review—Open for Public Comments" or by using the search function.

SUPPLEMENTARY INFORMATION: Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including

- whether the information will have practical utility;
- Evaluate the accuracy of the agency’s estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Evaluate whether and if so how the quality, utility, and clarity of the information proposed to be collected can be enhanced; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other 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:* Registration for CSA-Data Use Request.

3. *The agency form number, if any, and the applicable component of the Department sponsoring the collection:* There will be no form number. The applicable component within the Department of Justice is the Drug Enforcement Administration, Diversion Control Division.

4. *Affected public who will be asked or required to respond, as well as a brief abstract:*

Affected public (Primary): Business or other for-profit.

Affected public (Other): Not-for-profit institutions; Federal, State, local, and tribal governments.

Abstract: In accordance with the Controlled Substance Act (CSA), every person who manufactures, distributes, dispenses, conducts research with, imports, or exports any controlled substance to obtain a registration issued by the Attorney General. 21 U.S. 822, 823, and 957. While DEA registrants are able to self-verify their registration status, non-registrants do not have an

obligation to register under the CSA, and therefore does not have an automatic means to verify the registration of a DEA-registrant. Non-registrants have obligations to verify the registration statuses before doing things such as hiring practitioners, paying for controlled substance prescriptions covered by Medicaid or Medicare, and other means that are apart of commerce. This proposed collection would allow non-registrants to register for access to the CSA Database System, which gives the names and registration statuses of all DEA-registrants. Applicants would be required to re-apply annually by completing this form and submitting to DEA.

5. *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* The below table presents information regarding the number of respondents, responses and associated burden hours.

Activity	Number of annual responses	Number of annual responses	Average time per response (minutes)	Total annual hours
Registration for CSA Data-Use Request	1,000	1,000	15	250
Total	1,000	1,000	.....	250

6. *An estimate of the total public burden (in hours) associated with the proposed collection:* DEA estimates that this collection takes 250 annual burden hours.

If additional information is required please contact: Melody Braswell, Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Two Constitution Square, 145 N Street NE, Suite 3E.405B, Washington, DC 20530.

Dated: February 17, 2021.

Melody Braswell,

Department Clearance Officer for PRA, U.S. Department of Justice.

[FR Doc. 2021-03523 Filed 2-19-21; 8:45 am]

BILLING CODE 4410-09-P

MILLENNIUM CHALLENGE CORPORATION

[MCC FR 21-01]

Amendment to the MCC Economic Advisory Council Charter and Call for Nominations

AGENCY: Millennium Challenge Corporation.

ACTION: Notice.

SUMMARY: In accordance with the requirements of the Federal Advisory Committee Act, the Millennium Challenge Corporation (MCC) has amended the charter for the MCC Economic Advisory Council (EAC) to increase its membership from twenty (20) to twenty-five (25) individuals. MCC is hereby soliciting representative nominations for the 2020–2022 term for five (5) new members on the EAC. The EAC serves MCC in an advisory capacity only and provides insight to sharpen MCC’s analytical capacity and ensure continued expertise on relevant issues related to economic development. The EAC provides a platform for engagement with economic development and evaluation experts and contributes to MCC’s mission to reduce poverty through economic growth. MCC will use the advice, recommendations, and guidance from the EAC to inform threshold, compact, and concurrent regional compact development, implementation, and results measurement procedures, and assess future policy innovations and methodologies at MCC. The EAC is seeking members to comprise a diverse group of recognized thought leaders and experts representing academic institutions, think tanks, donor

organizations, and development banks. Additional information about MCC and its portfolio can be found at www.mcc.gov.

DATES: Nominations for EAC members must be received on or before 5:00 p.m. EST on March 7, 2021. Further information about the nomination process is included below. MCC plans to host the first meeting of the 2020–2022 term of the EAC in Spring 2021. The EAC will meet at least one time per year in Washington, DC or via video/teleconferencing. Members who are unable to attend in-person meetings may have the option to dial-in via video/teleconferencing.

FOR FURTHER INFORMATION CONTACT: Nominators are asked to send all nomination materials by email to MCCEACouncil@mcc.gov. While email is strongly preferred, nominators may send nomination materials by mail to Millennium Challenge Corporation, Attn: Mesbah Motamed, Designated Federal Officer, MCC Economic Advisory Council, 1099 14th St. NW, Suite 700, Washington, DC 20005. Request for additional information can also be directed to Mesbah Motamed, 202.521.7874, MCCEACouncil@mcc.gov.

SUPPLEMENTARY INFORMATION: The EAC shall consist of not more than twenty-

five (25) individuals who are recognized experts in their field, academics, innovators, and thought leaders, representing academic organizations, independent think tanks, international development agencies, multilateral and regional development financial institutions, and foundations. Efforts will be made to include expertise from countries and regions where MCC operates, within the resource constraints of MCC to support logistics costs. Qualified individuals may self-nominate or be nominated by any individual or organization. To be considered for the EAC, nominators should submit the following information:

- Name, title, organization and relevant contact information (including phone, mailing address, and email address) of the individual under consideration;
- A letter containing a brief biography for the nominee and description why the nominee should be considered for membership;
- CV including professional and academic credentials;

Please do not send company, or organization brochures or any other information. Materials submitted should total two pages or less, excluding CV. Should more information be needed, MCC staff will contact the nominee, obtain information from the nominee's past affiliations, or obtain information from publicly available sources.

All members of the EAC will be independent of the agency, representing the views and interests of their respective institution or area of expertise, and not as Special Government Employees. All members shall serve without compensation. The duties of the EAC are solely advisory and any determinations to be made or actions to be taken on the basis of EAC advice shall be made or taken by appropriate officers of MCC.

Nominees selected for appointment to the EAC will be notified by return email and receive a letter of appointment. A selection team will review the nomination packages and make recommendations regarding membership to the MCC Vice President of the Department of Policy and Evaluation based on criteria including: (1) Professional experience and knowledge; (2) academic field and expertise; (3) experience within regions in which MCC works; (4) contribution of diverse regional or technical professional perspectives, and (5) availability and willingness to serve. Based upon the selection team's recommendations, the MCC Vice President of the Department of Policy

and Evaluation will select representatives.

In the selection of members for the EAC, MCC will seek to ensure a balanced representation and consider a cross-section of those directly affected, interested, and qualified, as appropriate to the nature and functions of the EAC.

Nominations are open to all individuals without regard to race, color, religion, sex, gender, national origin, age, mental or physical disability, marital status, sexual orientation, or location.

(Authority: Federal Advisory Committee Act, 5 U.S.C. App.)

Dated: February 12, 2021.

Thomas G. Hohenthanner,
Acting VP/General Counsel and Corporate Secretary.

[FR Doc. 2021-03504 Filed 2-19-21; 8:45 am]

BILLING CODE 9211-03-P

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

[NARA-2021-018]

Agency Information Collection Activities: Submission for OMB Review; Comment Request

AGENCY: National Archives and Records Administration (NARA).

ACTION: Notice.

SUMMARY: We have submitted a request to the Office of Management and Budget (OMB) for approval to continue to collect information from people requesting military records so that we can locate, identify, and provide the requested information. We invite you to comment on this proposed information collection.

DATES: OMB must receive written comments on or before March 24, 2021.

ADDRESSES: Send any comments and recommendations on the proposed information collection in writing to www.reginfo.gov/public/do/PRAMain. You can find this particular information collection by selecting "Currently under 30-day Review—Open for Public Comments" or by using the search function.

FOR FURTHER INFORMATION CONTACT: Tamee Fechhelm, Paperwork Reduction Act Officer, by email at tamee.fechhelm@nara.gov or by telephone at 301.837.1694 with any requests for additional information.

SUPPLEMENTARY INFORMATION: Pursuant to the Paperwork Reduction Act of 1995 (Pub. L. 104-13), we invite the public and other Federal agencies to comment on proposed information collections.

We published a notice of proposed collection for this information collection on August 7, 2020 (85 FR 47989) and we received no comments. We are therefore submitting the described information collection to OMB for approval.

If you have comments or suggestions, they should address one or more of the following points: (a) Whether the proposed information collection is necessary for NARA to properly perform its functions; (b) our estimate of the burden of the proposed information collection and its accuracy; (c) ways we could enhance the quality, utility, and clarity of the information we collect; (d) ways we could minimize the burden on respondents of collecting the information, including through information technology; and (e) whether this collection affects small businesses.

In this notice, we solicit comments concerning the following information collection:

Title: Request Pertaining to Military Records.

OMB number: 3095-0029.

Agency form number: SF 180 and NA Form 13176; online form in eVetRecs is an electronic equivalent to the SF 180.

Type of review: Regular.

Affected public: Individuals who request access to military records, military medical records, and medical records of military dependents.

Estimated number of respondents: 953,328.

Estimated time per response: 5 minutes.

Frequency of response: On occasion (when an individual wishes to request information from military records, military medical records, or medical records of military dependents).

Estimated total annual burden hours: 79,444 hours.

Abstract: The general purpose of this voluntary data collection is to determine what is being requested, where records are located, what information is releasable, and where to send the response. When third parties submit requests, the information collected and provided serves as records of disclosure, which are required by the Privacy Act. The information collected via the SF 180 and eVetRecs is vital to our National Personnel Records Center, which stores and handles these records. We need this information to locate and release information from requested records. It also significantly improves our ability to provide timely and accurate information to requesters.

Swarnali Haldar,

Executive for Information Services/CIO.

[FR Doc. 2021-03452 Filed 2-19-21; 8:45 am]

BILLING CODE 7515-01-P

NATIONAL SCIENCE FOUNDATION**Advisory Committee for Environmental Research and Education Notice of Meeting**

In accordance with the Federal Advisory Committee Act (Pub. L. 92-463, as amended), the National Science Foundation (NSF) announces the following meeting:

NAME AND COMMITTEE CODE: Advisory Committee for Environmental Research and Education (9487).

DATE AND TIME: March 18, 2021; 11:00 a.m.—5:30 p.m.

PLACE: National Science Foundation, 2415 Eisenhower Avenue, Alexandria, VA 22314 ✓ Videoconference. Interested parties can register to join via teleconference at: <https://nsf.zoomgov.com/meeting/register/vJItcuygrzwoEiu7Xv04t0Roz4lO1NTmASo>.

Closed Caption will be available at: <https://www.captionedtext.com/client/event.aspx?EventID=4714537&CustomerID=321>

TYPE OF MEETING: Open.

CONTACT PERSON: Gayle Pugh Lev, Office of Integrative Activities/Office of the Director/National Science Foundation, 2415 Eisenhower Avenue, Alexandria, VA 22314. (Email: acere-poc@nsf.gov; Telephone: (703) 292-8040).

MINUTES: Will be available on the AC's website at: <https://www.nsf.gov/ere/ereweb/minutes.jsp>

PURPOSE OF MEETING: To provide advice, recommendations, and oversight concerning support for environmental research and education.

AGENDA: To discuss subcommittee work and prepare for future advisory committee activities. Updated agenda will be available at <https://www.nsf.gov/ere/ereweb/minutes.jsp>.

Dated: February 17, 2021.

Crystal Robinson,

Committee Management Officer.

[FR Doc. 2021-03475 Filed 2-19-21; 8:45 am]

BILLING CODE 7555-01-P

NUCLEAR REGULATORY COMMISSION

[NRC-2020-0171]

Setpoints for Safety-Related Instrumentation

AGENCY: Nuclear Regulatory Commission.

ACTION: Regulatory guide; issuance.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is issuing Revision 4

to Regulatory Guide (RG) 1.105, "Setpoints for Safety-Related Instrumentation." This RG describes an approach that is acceptable to the staff of the NRC to meet regulatory requirements ensuring that setpoints for safety-related instrumentation are established and maintained within the technical specification limits. RG 1.105 has been revised to incorporate additional information regarding American National Standards Institute (ANSI)/International Society of Automation (ISA) Standard 67.04.01-2018, "Setpoints for Nuclear Safety Related Instrumentation."

DATES: Revision 4 to RG 1.105 is available on February 22, 2021.

ADDRESSES: Please refer to Docket ID NRC-2020-0171 when contacting the NRC about the availability of information regarding this document. You may obtain publicly available information related to this document using any of the following methods:

- **Federal Rulemaking website:** Go to <https://www.regulations.gov> and search for Docket ID NRC-2020-0171. Address questions about Docket IDs in [Regulations.gov](https://www.regulations.gov) to Stacy Schumann; telephone: 301-415-0624; email: Stacy.Schumann@nrc.gov. For technical questions, contact the individuals listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.

- **NRC's Agencywide Documents Access and Management System (ADAMS):** You may obtain publicly available documents online in the ADAMS Public Documents collection at <https://www.nrc.gov/reading-rm/adams.html>. To begin the search, select "Begin Web-based ADAMS Search." For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1-800-397-4209, 301-415-4737, or by email to pdr.resource@nrc.gov.

- **Attention:** The PDR, where you may examine and order copies of public documents, is currently closed. You may submit your request to the PDR via email at pdr.resource@nrc.gov or call 1-800-397-4209 or 301-415-4737, between 8:00 a.m. and 4:00 p.m. (EST), Monday through Friday, except Federal holidays.

Revision 4 to RG 1.105 and the Regulatory Analysis may be found in ADAMS under Accession Nos. ML20330A329 and ML20055G824, respectively.

Regulatory guides are not copyrighted, and NRC approval is not required to reproduce them.

FOR FURTHER INFORMATION CONTACT:

Dawnmathews Kalathiveettil, Office of Nuclear Reactor Regulation, telephone:

301-415-5905, email: Dawnmathews.Kalathiveettil@nrc.gov, and Michael Eudy, Office of Nuclear Regulatory Research, telephone: 301-415-3104, email: Michael.Eudy@nrc.gov. Both are staff of the U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001.

SUPPLEMENTARY INFORMATION:**I. Discussion**

The NRC is issuing a revision to an existing guide in the NRC's "Regulatory Guide" series. This series was developed to describe and make available to the public information regarding methods that are acceptable to the NRC staff for implementing specific parts of the agency's regulations, techniques that the NRC staff uses in evaluating specific issues or postulated events, and data that the NRC staff needs in its review of applications for permits and licenses.

Revision 4 to RG 1.105 endorses ANSI/ISA 67.04.01-2018 as a method acceptable to the NRC staff for satisfying the NRC's regulations for ensuring that: (a) setpoints for safety-related instrumentation are established to protect plant safety and analytical limits, and (b) the maintenance of instrument channels implementing these setpoints ensures they are functioning as required, consistent with the plant technical specifications. This RG applies to licensees and applicants subject to part 50 of title 10 of the *Code of Federal Regulations* (10 CFR), "Domestic Licensing of Production and Utilization Facilities," and 10 CFR part 52, "Licenses, Certifications, and Approvals for Nuclear Power Plants."

II. Additional Information

Revision 4 of RG 1.105 was issued with a temporary identification of Draft Regulatory Guide, DG-1363, titled, "Setpoints for Safety-Related Instrumentation," (ADAMS Accession No. ML20055G823). The NRC published a notice of the availability of DG-1363 in the **Federal Register** on August 14, 2020 (85 FR 49685) for a 30-day public comment period. The public comment period closed on September 14, 2020, and the NRC received 24 comment documents. Public comments on DG-1363 and the staff responses to the public comments are available in ADAMS under Accession No. ML20330A328.

III. Congressional Review Act

This RG is a rule as defined in the Congressional Review Act (5 U.S.C. 801-808). However, the Office of Management and Budget has not found

it to be a major rule as defined in the Congressional Review Act.

IV. Backfitting, Forward Fitting, and Issue Finality

Revision 4 of RG 1.105 endorses ANSI/ISA 67.04.01–2018 and does not constitute backfitting as defined in 10 CFR 50.109, “Backfitting,” and as described in NRC Management Directive (MD) 8.4, “Management of Backfitting, Forward Fitting, Issue Finality, and Information Requests”; constitute forward fitting as that term is defined and described in MD 8.4; or affect the issue finality of any approval issued under 10 CFR part 52. As explained in Revision 4 to RG 1.105, applicants and licensees are not required to comply with the positions set forth in the RG.

Dated: February 16, 2021.

For the Nuclear Regulatory Commission.

Meraj Rahimi,

Chief, Regulatory Guidance and Generic Issues Branch, Division of Engineering, Office of Nuclear Regulatory Research.

[FR Doc. 2021–03466 Filed 2–19–21; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2020–0159]

Design Limits, Loading Combinations, Materials, Construction and Testing of Concrete Containments

AGENCY: Nuclear Regulatory Commission.

ACTION: Regulatory guide; issuance.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is issuing Revision 4 to Regulatory Guide (RG) 1.136, “Design Limits, Loading Combinations, Materials, Construction and Testing of Concrete Containments.” It updates the guidance for materials, design, construction, fabrication, examination, and testing of concrete containments in nuclear power plants through endorsement, with exceptions, of the 2019 edition of the American Society of Mechanical Engineers (ASME) Boiler & Pressure Vessel (B&PV) Code, Section III, Division 2 (American Concrete Institute (ACI) Standard 359–19), “Code for Concrete Containments.”

DATES: Revision 4 to RG 1.136 is available on February 22, 2021.

ADDRESSES: Please refer to Docket ID NRC–2020–0159 when contacting the NRC about the availability of information regarding this document. You may obtain publicly available information related to this document using any of the following methods:

- *Federal Rulemaking Website:* Go to <https://www.regulations.gov> and search for Docket ID NRC–2020–0159. Address questions about Docket IDs in *Regulations.gov* to Stacy Schumann; telephone: 301–415–0624; email: Stacy.Schumann@nrc.gov. For technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.

- *NRC’s Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly available documents online in the ADAMS Public Documents collection at <https://www.nrc.gov/reading-rm/adams.html>. To begin the search, select “Begin Web-based ADAMS Search.” For problems with ADAMS, please contact the NRC’s Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to pdr.resource@nrc.gov. Revision 4 to RG 1.136 and the regulatory analysis may be found in ADAMS under Accession Nos. ML20301A167 and ML20105A216, respectively.

- *Attention:* The PDR, where you may examine and order copies of public documents, is currently closed. You may submit your request to the PDR via email at pdr.resource@nrc.gov or call 1–800–397–4209 or 301–415–4737, between 8:00 a.m. and 4:00 p.m. (EST), Monday through Friday, except Federal holidays.

Regulatory guides are not copyrighted, and NRC approval is not required to reproduce them.

FOR FURTHER INFORMATION CONTACT:

George Thomas, Office of Nuclear Reactor Regulation, telephone: 301–415–6181, email: George.Thomas2@nrc.gov and Edward O’Donnell, Office of Nuclear Regulatory Research, telephone: 301–415–3317, email: Edward.ODonnell@nrc.gov. Both are staff of the U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

SUPPLEMENTARY INFORMATION:

I. Discussion

The NRC is issuing a revision to an existing guide in the NRC’s “Regulatory Guide” series. This series was developed to describe and make available to the public information regarding methods that are acceptable to the NRC staff for implementing specific parts of the agency’s regulations, to explain techniques that the staff uses in evaluating specific issues or postulated events, and to describe information that the staff needs in its review of applications for permits and licenses.

Revision 4 of RG 1.136 was issued with a temporary identification of Draft

Regulatory Guide, DG–1372. This revision provides guidance to meet regulatory requirements for materials, design, construction, fabrication, examination, and testing of concrete containments in nuclear power plants.

This revision of the guide endorses, with exceptions, the 2019 edition of Division 2 of the ASME B&PV Code, Section III (ACI Standard 359–19), “Code for Concrete Containments.” This revision of the guide also addresses the acceptability of the Section III Code Cases related to Division 2 of the ASME B&PV Code, Section III.

II. Additional Information

The NRC published a notice of the availability of DG–1372 in the **Federal Register** on July 8, 2020 (85 FR 41071) for a 60-day public comment period. The public comment period closed on September 8, 2020. Public comments on DG–1372 and the staff responses to the public comments are available in ADAMS under Accession No. ML20301A168.

III. Congressional Review Act

This RG is a rule as defined in the Congressional Review Act (5 U.S.C. 801–808). However, the Office of Management and Budget has not found it to be a major rule as defined in the Congressional Review Act.

IV. Backfitting, Forward Fitting, and Issue Finality

This regulatory guide provides guidance for materials, design, construction, fabrication, examination, and testing of concrete containments in nuclear power plants through endorsement, with exceptions, of the 2019 edition of Division 2 of the ASME B&PV Code, Section III (ACI Standard 359–19), “Code for Concrete Containments.” The issuance of this regulatory guide does not constitute backfitting as defined in section 50.109 of title 10 of the *Code of Federal Regulations* (CFR), “Backfitting,” and as described in NRC Management Directive 8.4, “Management of Backfitting, Forward Fitting, Issue Finality, and Information Requests,” or affect issue finality of any approval issued under 10 CFR part 52, “Licenses, Certificates, and Approvals for Nuclear Power Plants,” because, as explained in this regulatory guide, licensees are not required to comply with the positions set forth in this regulatory guide.

Dated: February 16, 2021.

For the Nuclear Regulatory Commission.

Meraj Rahimi,

Chief, Regulatory Guidance and Generic Issues Branch, Division of Engineering, Office of Nuclear Regulatory Research.

[FR Doc. 2021-03457 Filed 2-19-21; 8:45 am]

BILLING CODE 7590-01-P

NUCLEAR REGULATORY COMMISSION

[NRC-2019-0253]

Final Revision to Branch Technical Position 7-19 Guidance for Evaluation of Defense in Depth and Diversity to Address Common-Cause Failure Due to Latent Design Defects in Digital Safety Systems; Correction

AGENCY: Nuclear Regulatory Commission.

ACTION: Standard review plan-final section revision; issuance; correction.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is correcting a notice that was published in the **Federal Register** on January 29, 2021, regarding the final revision to Branch Technical Position (BTP) 7-19, "Guidance for Evaluation of Defense in Depth and Diversity to Address Common-Cause Failure Due to Latent Design Defects in Digital Safety Systems." This action is necessary to correct the Agency Document Access and Management System (ADAMS) Accession number for the staff responses to public comments on the draft version of BTP 7-19.

DATES: The correction takes effect on February 22, 2021.

ADDRESSES: Please refer to Docket ID NRC-2019-0253 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-2019-0253. Address questions about Docket IDs in *Regulations.gov* to Stacy Schumann; telephone: 301-415-0624; email: Stacy.Schumann@nrc.gov. For technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.

- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly available documents online in the ADAMS Public Documents collection at <https://www.nrc.gov/reading-rm/adams.html>. To begin the search, select "Begin Web-based ADAMS Search." For problems with ADAMS, please contact

the NRC's Public Document Room (PDR) reference staff at 1-800-397-4209, 301-415-4737, or by email to pdr.resource@nrc.gov. The final revision 8 of BTP 7-19, Final Revision to Branch Technical Position 7-19 Guidance for Evaluation of Defense in Depth and Diversity to Address Common-Cause Failure Due to Latent Design Defects in Digital Safety Systems is available in ADAMS under Accession No. ML20339A642.

- *Attention:* The PDR, where you may examine and order copies of public documents, is currently closed. You may submit your request to the PDR via email at pdr.resource@nrc.gov or call 1-800-397-4209 or 301-415-4737, between 8:00 a.m. and 4:00 p.m. (EST), Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT:

Mark D. Notich, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001; telephone: 301-415-3053, email: Mark.Notich@nrc.gov.

SUPPLEMENTARY INFORMATION: On January 29, 2021 the NRC issued a notice in the **Federal Register** for the final revision of BTP 7-19 (86 FR 7577). The notice included the incorrect ADAMS Accession Number for the BTP 7-19, Revision 8, public comment resolution document. This document corrects the ADAMS Accession Number for the BTP 7-19, Revision 8, public comment resolution document. The public comment resolution document is available in ADAMS under Accession No. ML20339A646.

Dated: February 16, 2021.

For the Nuclear Regulatory Commission.

Dennis C. Morey,

Chief, Licensing Project Branch, Division of Operating Reactors, Office of Nuclear Reactor Regulation.

[FR Doc. 2021-03435 Filed 2-19-21; 8:45 am]

BILLING CODE 7590-01-P

NUCLEAR REGULATORY COMMISSION

[NRC-2021-0001]

Sunshine Act Meetings

TIME AND DATE: Weeks of February 15, 22, March 1, 8, 15, 22, 29, 2021.

PLACE: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Public.

Week of February 15, 2021

Thursday, February 18, 2021

9:55 a.m. Affirmation Session (Public Meeting) (Tentative)

- Holtec International (HI-STORE Consolidated Interim Storage Facility), Sierra Club Appeal of LBP-20-6 (Tentative)
- DTE Electric Co. (Fermi 2), Appeal of LBP-20-7 (Denial of Hearing Request Related to Spent Fuel Pool License Amendment) (Tentative) (Contact: Wesley Held: 301-287-3591)

Additional Information: Due to COVID-19, there will be no physical public attendance. The public is invited to attend the Commission's meeting live in one of two ways; via webcast at the Web address—<https://video.nrc.gov/> or via teleconference. Details for joining the teleconference in listen only mode may be found at <https://www.nrc.gov/pmns/mtg>.

10:00 a.m. Briefing on Equal Employment Opportunity, Affirmative Employment, and Small Business (Public Meeting) (Contact: Nadim Khan: 301-415-1119)

Additional Information: Due to COVID-19, there will be no physical public attendance. The public is invited to attend the Commission's meeting live in one of two ways; via webcast at the Web address—<https://video.nrc.gov/> or via teleconference. Details for joining the teleconference in listen only mode may be found at <https://www.nrc.gov/pmns/mtg>.

Week of February 22, 2021—Tentative

There are no meetings scheduled for the week of February 22, 2021.

Week of March 1, 2021—Tentative

There are no meetings scheduled for the week of March 1, 2021.

Week of March 8, 2021—Tentative

There are no meetings scheduled for the week of March 8, 2021.

Week of March 15, 2021—Tentative

There are no meetings scheduled for the week of March 15, 2021.

Week of March 22, 2021—Tentative

There are no meetings scheduled for the week of March 22, 2021.

Week of March 29, 2021—Tentative

There are no meetings scheduled for the week of March 29, 2021.

CONTACT PERSON FOR MORE INFORMATION:

For more information or to verify the status of meetings, contact Wesley Held at 301-287-3591 or via email at Wesley.Held@nrc.gov. The schedule for Commission meetings is subject to change on short notice.

The NRC Commission Meeting Schedule can be found on the internet at:

<https://www.nrc.gov/public-involve/public-meetings/schedule.html>.

The NRC provides reasonable accommodation to individuals with disabilities where appropriate. If you need a reasonable accommodation to participate in these public meetings or need this meeting notice or the transcript or other information from the public meetings in another format (e.g., braille, large print), please notify Anne Silk, NRC Disability Program Specialist, at 301-287-0745, by videophone at 240-428-3217, or by email at Anne.Silk@nrc.gov. Determinations on requests for reasonable accommodation will be made on a case-by-case basis.

Members of the public may request to receive this information electronically. If you would like to be added to the distribution, please contact the Nuclear Regulatory Commission, Office of the Secretary, Washington, DC 20555, at 301-415-1969, or by email at Tyesha.Bush@nrc.gov.

The NRC is holding the meetings under the authority of the Government in the Sunshine Act, 5 U.S.C. 552b.

Dated: February 17, 2021.

For the Nuclear Regulatory Commission.

Denise L. McGovern,

Policy Coordinator, Office of the Secretary.

[FR Doc. 2021-03529 Filed 2-18-21; 11:15 am]

BILLING CODE 7590-01-P

POSTAL REGULATORY COMMISSION

[Docket Nos. MC2021-69 and CP2021-72]

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:* February 24, 2021.

ADDRESSES: Submit comments electronically via the Commission's Filing Online system at <http://www.prc.gov>. Those who cannot submit comments electronically should contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section by telephone for advice on filing alternatives.

FOR FURTHER INFORMATION CONTACT:

David A. Trissell, General Counsel, at 202-789-6820.

SUPPLEMENTARY INFORMATION:

Table of Contents

- I. Introduction
- II. Docketed Proceeding(s)

I. Introduction

The Commission gives notice that the Postal Service filed request(s) for the Commission to consider matters related to negotiated service agreement(s). The request(s) may propose the addition or removal of a negotiated service agreement from the market dominant or the competitive product list, or the modification of an existing product currently appearing on the market dominant or the competitive product list.

Section II identifies the docket number(s) associated with each Postal Service request, the title of each Postal Service request, the request's acceptance date, and the authority cited by the Postal Service for each request. For each request, the Commission appoints an officer of the Commission to represent the interests of the general public in the proceeding, pursuant to 39 U.S.C. 505 (Public Representative). Section II also establishes comment deadline(s) pertaining to each request.

The public portions of the Postal Service's request(s) can be accessed via the Commission's website (<http://www.prc.gov>). Non-public portions of the Postal Service's request(s), if any, can be accessed through compliance with the requirements of 39 CFR 3011.301.¹

The Commission invites comments on whether the Postal Service's request(s) in the captioned docket(s) are consistent with the policies of title 39. For request(s) that the Postal Service states concern market dominant product(s), applicable statutory and regulatory requirements include 39 U.S.C. 3622, 39 U.S.C. 3642, 39 CFR part 3030, and 39 CFR part 3040, subpart B. For request(s) that the Postal Service states concern competitive product(s), applicable statutory and regulatory requirements include 39 U.S.C. 3632, 39 U.S.C. 3633, 39 U.S.C. 3642, 39 CFR part 3035, and 39 CFR part 3040, subpart B. Comment deadline(s) for each request appear in section II.

¹ See Docket No. RM2018-3, Order Adopting Final Rules Relating to Non-Public Information, June 27, 2018, Attachment A at 19-22 (Order No. 4679).

1. *Docket No(s):* MC2021-69 and CP2021-72; *Filing Title:* USPS Request to Add Parcel Select and Parcel Return Service Contract 13 to Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* February 16, 2021; *Filing Authority:* 39 U.S.C. 3642, 39 CFR 3040.130 through 3040.135, and 39 CFR 3035.105; *Public Representative:* Christopher C. Mohr; *Comments Due:* February 24, 2021.

This Notice will be published in the **Federal Register**.

Erica A. Barker,
Secretary.

[FR Doc. 2021-03501 Filed 2-19-21; 8:45 am]

BILLING CODE 7710-FW-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-91139; File No. SR-BX-2021-002]

Self-Regulatory Organizations; Nasdaq BX, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Rule 4759

February 16, 2021.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),¹ and Rule 19b-4 thereunder,² notice is hereby given that on February 3, 2021, Nasdaq BX, Inc. ("BX" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend Rule 4759 (Data Feeds Utilized) to change the primary and secondary source of quotation data of certain market centers in the list of proprietary and network processor feeds that the Exchange utilizes for the handling, routing, and execution of orders as well as regulatory compliance processes related to those function.

The text of the proposed rule change is available on the Exchange's website at <https://listingcenter.nasdaq.com/rulebook/bx/rules>, at the principal office of the Exchange, and at the Commission's Public Reference Room.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to update and amend the data feeds table in Rule 4759, which sets forth on a market-by-market basis the specific proprietary and network processor feeds that the Exchange utilizes for the handling, routing, and execution of orders, and for performing the regulatory compliance processes related to each of those functions. Specifically, the table would be amended to reflect that the Exchange will receive a direct feed from MIAX PEARL, LLC ("MIAX PEARL") and MEMX LLC ("MEMX") as its primary quotation data source and CQS/UQDF will become its secondary data source for the handling, routing and execution of orders and for performing regulatory compliance processes related to each of those functions. The change to the primary sources reflects the Exchange's effort to include an additional source and the use of secondary sources in the event the primary source is unable to provide data.

The Exchange proposes to implement the proposed rule change no later than ninety (90) days following the effective date of the proposed rule change. The Exchange notes this additional time gives the Exchange time to configure its system accordingly.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,³ in general, and furthers the objectives of Section 6(b)(5) of the Act,⁴ in particular, in that it is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market

system, and, in general to protect investors and the public interest.

The Exchange believes that the proposed rule change removes impediments to and perfects the mechanism of a free and open market because updating its data feeds table of market centers for which the exchange consumes quotation data through a direct feed will provide clarity to market participants. Additionally, it is necessary and consistent with the public interest and the protection of investors to update the Exchange's table of market centers in Rule 4759 in order to provide transparency with respect to all the direct proprietary and network processor feeds from which the Exchange obtains market data.

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 not necessary or appropriate in furtherance of the purposes of the Act. The proposed rule change is not designed to address any competitive issue; instead, its purpose is to enhance transparency with respect to the operation of the Exchange and its use of market data feeds.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act⁵ and Rule 19b-4(f)(6) thereunder.⁶

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such

action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an email to rule-comments@sec.gov. Please include File Number SR-BX-2021-002 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549-1090.
- All submissions should refer to File Number SR-BX-2021-002. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All

³ 15 U.S.C. 78f(b).

⁴ 15 U.S.C. 78f(b)(5).

⁵ 15 U.S.C. 78s(b)(3)(A).

⁶ 17 CFR 240.19b-4(f)(6). In addition, Rule 19b-4(f)(6)(iii) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

submissions should refer to File Number SR–BX–2021–002 and should be submitted on or before March 15, 2021.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.⁷

J. Matthew DeLesDernier,
Assistant Secretary.

[FR Doc. 2021–03460 Filed 2–19–21; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 34195; 812–15160]

Strategas Trust and Strategas Securities, LLC

February 16, 2021.

AGENCY: Securities and Exchange Commission (“Commission”).

ACTION: Notice.

Notice of an application under (a) section 6(c) of the Investment Company Act of 1940 (“Act”) for an exemption from sections 2(a)(32), 2(a)(35), 14(a), 19(b), 22(d) and 26(a)(2)(C) of the Act and rules 19b–1 and rule 22c–1 thereunder and (b) sections 11(a) and 11(c) of the Act for approval of certain exchange and rollover privileges.

APPLICANTS: Strategas Securities, LLC (“Strategas”) and Strategas Trust.¹

SUMMARY OF APPLICATION: Applicants request an order to permit certain unit investment trusts (“UIT”) to: (a) Impose sales charges on a deferred basis and waive the deferred sales charge in certain cases; (b) offer unitholders certain exchange and rollover options; (c) publicly offer units without requiring the Depositor to take for its own account \$100,000 worth of units; and (d) distribute capital gains resulting from the sale of portfolio securities within a reasonable time after receipt.

FILING DATES: The application was filed on September 18, 2020, and amended on January 5, 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 mail. Hearing requests should be received by the Commission by 5:30 p.m. on March 15, 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 at *Secretarys-Office@sec.gov*.

ADDRESSES: The Commission: *Secretarys-Office@sec.gov*. Applicants: Gus Demopolous, Strategas Trust, 52 Vanderbilt Avenue, 8th Floor, New York, NY 10017 and Bradley Berman and Anna T. Pinedo, Mayer Brown LLP, 1221 Avenue of the Americas, New York, NY 10020–1001.

FOR FURTHER INFORMATION CONTACT: Laura L. Solomon, Senior Counsel, at (202) 551–6915, or Kaitlin C. Bottock, Branch Chief, at (202) 551–6821 (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.

Applicants’ Representations

1. Strategas Trust and any future Trust will be a UIT registered under the Act. Strategas, a limited liability company, is registered under the Securities Exchange Act of 1934 as a broker-dealer and will be the Depositor of Strategas Trust. Each Series will be created by a trust agreement between the Depositor, the evaluator, and a banking institution or trust company as trustee.

2. The Depositor acquires a portfolio of securities, which it deposits with the series trustee (“Trustee”) in exchange for certificates representing units of fractional undivided interest in the Series’ portfolio (“Units”). The Units are offered to the public through the Depositor and dealers at a price which, during the initial offering period, is based upon the aggregate market value of the underlying securities, or, the aggregate offering side evaluation of the

underlying securities if the underlying securities are not listed on a securities exchange, plus a front-end sales charge, a deferred sales charge or both. The maximum sales charge may be reduced in compliance with rule 22d–1 under the Act in certain circumstances, which are disclosed in the Series’ prospectus.

3. The Depositor may, but is not legally obligated to, maintain a secondary market for Units of an outstanding Series. Other broker-dealers may or may not maintain a secondary market for Units of a Series. If a secondary market is maintained, investors will be able to purchase Units on the secondary market at the current public offering price plus a front-end sales charge. If such a market is not maintained at any time for any Series, holders of the Units (“Unitholders”) of that Series may redeem their Units through the Trustee.

A. Deferred Sales Charge and Waiver of Deferred Sales Charge Under Certain Circumstances

1. Applicants request an order to the extent necessary to permit one or more Series to impose a sales charge on a deferred basis (“DSC”). For each Series, the Depositor would set a maximum sales charge per Unit, a portion of which may be collected “up front” (*i.e.*, at the time an investor purchases the Units). The DSC would be collected subsequently in installments (“Installment Payments”) as described in the application. The Depositor would not add any amount for interest or any similar or related charge to adjust for such deferral.

2. When a Unitholder redeems or sells Units, the Depositor intends to deduct any unpaid DSC from the redemption or sale proceeds. When calculating the amount due, the Depositor will assume that Units on which the DSC has been paid in full are redeemed or sold first. With respect to Units on which the DSC has not been paid in full, the Depositor will assume that the Units held for the longest time are redeemed or sold first. Applicants represent that the DSC collected at the time of redemption or sale, together with the Installment Payments and any amount collected up front, will not exceed the maximum sales charge per Unit. Under certain circumstances, the Depositor may waive the collection of any unpaid DSC in connection with redemptions or sales of Units. These circumstances will be disclosed in the prospectus for the relevant Series and implemented in accordance with rule 22d–1 under the Act.

3. Each Series offering Units subject to a DSC will state the maximum charge

⁷ 17 CFR 200.30–3(a)(12).

¹ Applicants also request relief for future registered unit investment trusts (collectively, with Strategas Trust, the “Trusts”) and series of the Trusts (“Series”) that are sponsored by Strategas or any entity controlling, controlled by or under common control with Strategas or any successor in interest to any such entity (together with Strategas, the “Depositor”). Any existing or future entity that relies on the requested order will comply with the terms and conditions of the application. All existing entities that currently intend to rely on the requested order are named as applicants.

per Unit in its prospectus. In addition, the prospectus for such Series will include the table required by Form N-1A (modified as appropriate to reflect the difference between UITs and open-end management investment companies) and a schedule setting forth the number and date of each Installment Payment, along with the duration of the collection period. The prospectus also will disclose that portfolio securities may be sold to pay the DSC if distribution income is insufficient and that securities will be sold pro rata, if practicable, otherwise a specific security will be designated for sale.

B. Exchange Option and Rollover Option

1. Applicants request an order to the extent necessary to permit Unitholders of a Series to exchange their Units for Units of another Series (“Exchange Option”) and Unitholders of a Series that is terminating to exchange their Units for Units of a new Series of the same type (“Rollover Option”). The Exchange Option and Rollover Option would apply to all exchanges of Units sold with a front-end sales charge, a DSC or both.

2. A Unitholder who purchases Units under the Exchange Option or Rollover Option would pay a lower sales charge than that which would be paid for the Units by a new investor. The reduced sales charge will be reasonably related to the expenses incurred in connection with the administration of the DSC program, which may include an amount that will fairly and adequately compensate the Depositor and participating underwriters and brokers for their services in providing the DSC program.

Applicants’ Legal Analysis

A. DSC and Waiver of DSC

1. Section 4(2) of the Act defines a “unit investment trust” as an investment company that issues only redeemable securities. Section 2(a)(32) of the Act defines a “redeemable security” as a security that, upon its presentation to the issuer, entitles the holder to receive approximately his or her proportionate share of the issuer’s current net assets or the cash equivalent of those assets. Rule 22c-1 under the Act requires that the price of a redeemable security issued by a registered investment company for purposes of sale, redemption or repurchase be based on the security’s current net asset value (“NAV”). Because the collection of any unpaid DSC may cause a redeeming Unitholder to receive an amount less than the NAV

of the redeemed Units, applicants request relief from section 2(a)(32) and rule 22c-1.

2. Section 22(d) of the Act and rule 22d-1 under the Act require a registered investment company and its principal underwriter and dealers to sell securities only at the current public offering price described in the investment company’s prospectus, with the exception of sales of redeemable securities at prices that reflect scheduled variations in the sales load. Section 2(a)(35) of the Act defines the term “sales load” as the difference between the sales price and the portion of the proceeds invested by the depositor or trustee. Applicants request relief from section 2(a)(35) and section 22(d) to permit waivers, deferrals or other scheduled variations of the sales load.

3. Under section 6(c) of the Act, the Commission may exempt classes of transactions, if and to the extent that 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 their proposal meets the standards of section 6(c). Applicants state that the provisions of section 22(d) are intended to prevent (a) riskless trading in investment company securities due to backward pricing, (b) disruption of orderly distribution by dealers selling shares at a discount, and (c) discrimination among investors resulting from different prices charged to different investors. Applicants assert that the proposed DSC program will present none of these abuses. Applicants further state that all scheduled variations in the sales load will be disclosed in the prospectus of each Series and applied uniformly to all investors, and that applicants will comply with all the conditions set forth in rule 22d-1.

4. Section 26(a)(2)(C) of the Act, in relevant part, prohibits a trustee or custodian of a UIT from collecting from the trust as an expense any payment to the trust’s depositor or principal underwriter. Because the Trustee’s payment of the DSC to the Depositor may be deemed to be an expense under section 26(a)(2)(C), applicants request relief under section 6(c) from section 26(a)(2)(C) to the extent necessary to permit the Trustee to collect Installment Payments and disburse them to the Depositor. Applicants submit that the relief is appropriate because the DSC is more properly characterized as a sales load.

B. Exchange Option and Rollover Option

1. Sections 11(a) and 11(c) of the Act prohibit any offer of exchange by a UIT for the securities of another investment company unless the terms of the offer have been approved in advance by the Commission. Applicants request an order under sections 11(a) and 11(c) for Commission approval of the Exchange Option and the Rollover Option.

C. Net Worth Requirement

1. Section 14(a) of the Act requires that a registered investment company have \$100,000 of net worth prior to making a public offering. Applicants state that each Series will comply with this requirement because the Depositor will deposit more than \$100,000 of securities. Applicants assert, however, that the Commission has interpreted section 14(a) as requiring that the initial capital investment in an investment company be made without any intention to dispose of the investment. Applicants state that, under this interpretation, a Series would not satisfy section 14(a) because of the Depositor’s intention to sell all the Units of the Series.

2. Rule 14a-3 under the Act exempts UITs from section 14(a) if certain conditions are met, one of which is that the UIT invest only in “eligible trust securities,” as defined in the rule. Applicants state that they may not rely on rule 14a-3 because certain Series (collectively, “Structured Series”) will invest all or a portion of their assets in equity securities, debt securities, FLEXible EXchange® Options (“FLEX Options”)², or other assets which do not satisfy the definition of eligible trust securities.

3. Applicants request an exemption under section 6(c) of the Act to the extent necessary to exempt the Structured Series from the net worth requirement in section 14(a). Applicants state that the Series and the Depositor will comply in all respects with the requirements of rule 14a-3, except that the Structured Series will not restrict their portfolio investments to “eligible trust securities.”

D. Capital Gains Distribution

1. Section 19(b) of the Act and rule 19b-1 under the Act provide that, except under limited circumstances, no registered investment company may

² Applicants state that a Structured Series will invest in FLEX Options with expiration dates that coincide with the Structured Series’ maturity date and any relief granted from the provisions of sections 14(a) and 19(b) of the Act and rule 19b-1 under the Act included in the requested order will not extend to any Series that intends to hold a derivative security other than FLEX Options.

distribute long-term gains more than once every twelve months. Rule 19b-1(c), under certain circumstances, exempts a UIT investing in eligible trust securities (as defined in rule 14a-3) from the requirements of rule 19b-1. Because the Structured Series do not limit their investments to eligible trust securities, however, the Structured Series will not qualify for the exemption in paragraph (c) of rule 19b-1. Applicants therefore request an exemption under section 6(c) from section 19(b) and rule 19b-1 to the extent necessary to permit capital gains earned in connection with the sale of portfolio securities to be distributed to Unitholders along with the Structured Series' regular distributions. In all other respects, applicants will comply with section 19(b) and rule 19b-1.

2. Applicants state that their proposal meets the standards of section 6(c). Applicants assert that any sale of portfolio securities would be triggered by the need to meet Trust expenses, Installment Payments, or by redemption requests, events over which the Depositor and the Structured Series do not have control. Applicants further state that, because principal distributions must be clearly indicated in accompanying reports to Unitholders as a return of principal and will be relatively small in comparison to normal dividend distributions, there is little danger of confusion from failure to differentiate among distributions.

Applicants' Conditions

Applicants agree that any order granting the requested relief will be subject to the following conditions:

A. DSC Relief and Exchange and Rollover Options

1. Whenever the Exchange Option or Rollover Option is to be terminated or its terms are to be amended materially, any holder of a security subject to that privilege will be given prominent notice of the impending termination or amendment at least 60 days prior to the date of termination or the effective date of the amendment, provided that: (a) No such notice need be given if the only material effect of an amendment is to reduce or eliminate the sales charge payable at the time of an exchange, to add one or more new Series eligible for the Exchange Option or the Rollover Option, or to delete a Series which has terminated; and (b) no notice need be given if, under extraordinary circumstances, either (i) there is a suspension of the redemption of Units of the Series under section 22(e) of the Act and the rules and regulations promulgated thereunder, or (ii) a Series

temporarily delays or ceases the sale of its Units because it is unable to invest amounts effectively in accordance with applicable investment objectives, policies and restrictions.

2. An investor who purchases Units under the Exchange Option or Rollover Option will pay a lower sales charge than that which would be paid for the Units by a new investor.

3. The prospectus of each Series offering exchanges or rollovers and any sales literature or advertising that mentions the existence of the Exchange Option or Rollover Option will disclose that the Exchange Option and the Rollover Option are subject to modification, termination or suspension without notice, except in certain limited cases.

4. Any DSC imposed on a Series' Units will comply with the requirements of subparagraphs (1), (2) and (3) of rule 6c-10(a) under the Act.

5. Each Series offering Units subject to a DSC will include in its prospectus the disclosure required by Form N-1A relating to deferred sales charges (modified as appropriate to reflect the differences between UITs and open-end management investment companies) and a schedule setting forth the number and date of each Installment Payment.

B. Net Worth Requirement

Applicants will comply in all respects with the requirements of rule 14a-3 under the Act, except that the Structured Series will not restrict their portfolio investments to "eligible trust securities."

For the Commission, by the Division of Investment Management, under delegated authority.

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2021-03455 Filed 2-19-21; 8:45 am]

BILLING CODE 8011-01-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-91138; File No. SR-NASDAQ-2021-008]

Self-Regulatory Organizations; The Nasdaq Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Equity 4, Rule 4759

February 16, 2021.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),¹ and Rule 19b-4 thereunder,²

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

notice is hereby given that on February 3, 2021, The Nasdaq Stock Market LLC ("Nasdaq" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend Equity 4, Rule 4759 (Data Feeds Utilized) to change the primary and secondary source of quotation data of certain market centers in the list of proprietary and network processor feeds that the Exchange utilizes for the handling, routing, and execution of orders as well as regulatory compliance processes related to those functions.

The text of the proposed rule change is available on the Exchange's website at <https://listingcenter.nasdaq.com/rulebook/nasdaq/rules>, at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to update and amend the data feeds table in Equity 4, Rule 4759, which sets forth on a market-by-market basis the specific proprietary and network processor feeds that the Exchange utilizes for the handling, routing, and execution of orders, and for performing the regulatory compliance processes related to each of those functions. Specifically, the table would be amended to reflect that the Exchange will receive a direct feed from MIAx PEARL, LLC ("MIAx PEARL") and MEMX LLC ("MEMX") as its primary

quotation data source and CQS/UQDF will become its secondary data source for the handling, routing and execution of orders and for performing regulatory compliance processes related to each of those functions. The change to the primary sources reflects the Exchange's effort to include an additional source and the use of secondary sources in the event the primary source is unable to provide data.

The Exchange proposes to implement the proposed rule change no later than ninety (90) days following the effective date of the proposed rule change. The Exchange notes this additional time gives the Exchange time to configure its system accordingly.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,³ in general, and furthers the objectives of Section 6(b)(5) of the Act,⁴ in particular, in that it is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general to protect investors and the public interest.

The Exchange believes that the proposed rule change removes impediments to and perfects the mechanism of a free and open market because updating its data feeds table of market centers for which the exchange consumes quotation data through a direct feed will provide clarity to market participants. Additionally, it is necessary and consistent with the public interest and the protection of investors to update the Exchange's table of market centers in Equity 4, Rule 4759 in order to provide transparency with respect to all the direct proprietary and network processor feeds from which the Exchange obtains market data.

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 not necessary or appropriate in furtherance of the purposes of the Act. The proposed rule change is not designed to address any competitive issue; instead, its purpose is to enhance transparency with respect to the operation of the Exchange and its use of market data feeds.

³ 15 U.S.C. 78f(b).

⁴ 15 U.S.C. 78f(b)(5).

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act⁵ and Rule 19b-4(f)(6) thereunder.⁶

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an email to rule-comments@sec.gov. Please include File Number SR-NASDAQ-2021-008 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549-1090. All submissions should refer to File Number SR-NASDAQ-2021-008. This

⁵ 15 U.S.C. 78s(b)(3)(A).

⁶ 17 CFR 240.19b-4(f)(6). In addition, Rule 19b-4(f)(6)(iii) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-NASDAQ-2021-008 and should be submitted on or before March 15, 2021.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.⁷

J. Matthew DeLesDernier,
Assistant Secretary.

[FR Doc. 2021-03461 Filed 2-19-21; 8:45 am]

BILLING CODE 8011-01-P

SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meetings

TIME AND DATE: 2:30 p.m. on Thursday, February 25, 2021.

PLACE: The meeting will be held via remote means and/or at the Commission's headquarters, 100 F Street NE, Washington, DC 20549.

STATUS: This meeting will be closed to the public.

MATTERS TO BE CONSIDERED:

Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries will attend the closed meeting. Certain

⁷ 17 CFR 200.3-3(a)(12).

staff members who have an interest in the matters also may be present.

In the event that the time, date, or location of this meeting changes, an announcement of the change, along with the new time, date, and/or place of the meeting will be posted on the Commission's website at <https://www.sec.gov>.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c)(3), (5), (6), (7), (8), 9(B) and (10) and 17 CFR 200.402(a)(3), (a)(5), (a)(6), (a)(7), (a)(8), (a)(9)(ii) and (a)(10), permit consideration of the scheduled matters at the closed meeting.

The subject matter of the closed meeting will consist of the following topics:

Institution and settlement of injunctive actions;

Institution and settlement of administrative proceedings;

Resolution of litigation claims; and Other matters relating to examinations and enforcement proceedings.

At times, changes in Commission priorities require alterations in the scheduling of meeting agenda items that may consist of adjudicatory, examination, litigation, or regulatory matters.

CONTACT PERSON FOR MORE INFORMATION: For further information; please contact Vanessa A. Countryman from the Office of the Secretary at (202) 551-5400.

Dated: February 18, 2021.

Vanessa A. Countryman,
Secretary.

[FR Doc. 2021-03637 Filed 2-18-21; 4:15 pm]

BILLING CODE 8011-01-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-91135; File No. SR-CBOE-2020-034]

Self-Regulatory Organizations; Cboe Exchange, Inc.; Notice of Withdrawal of a Proposed Rule Change, as Modified by Amendment Nos. 1 and 2, to Authorize for Trading Flexible Exchange Options on Full-Value Indexes With a Contract Multiplier of One

February 16, 2021.

On June 30, 2020, Cboe Exchange, Inc. ("Exchange") filed with the Securities and Exchange Commission ("Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Exchange Act")¹ and Rule

19b-4 thereunder,² a proposed rule change to authorize for trading flexible exchange options on full-value indexes with a contract multiplier of one.

The proposed rule change was published for comment in the **Federal Register** on July 20, 2020.³ On September 2, 2020, pursuant to Section 19(b)(2) of the Exchange Act,⁴ the Commission designated a longer period within which to approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether to disapprove the proposed rule change.⁵ On October 15, 2020, the Commission instituted proceedings under Section 19(b)(2)(B) of the Exchange Act⁶ to determine whether to approve or disapprove the proposed rule change.⁷ On January 12, 2021, the Exchange submitted Amendment No. 1 to the proposed rule change.⁸ On January 14, 2021, the Commission designated a longer period for Commission action on proceedings to determine whether to approve or disapprove the proposed rule change, as modified by Amendment No. 1.⁹ On February 4, 2021, the Exchange submitted Amendment No. 2 to the proposed rule change.¹⁰ On February 12, 2021, the Exchange withdrew the proposed rule change (SR-CBOE-2020-034).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹¹

J. Matthew DeLesDernier,
Assistant Secretary.

[FR Doc. 2021-03459 Filed 2-19-21; 8:45 am]

BILLING CODE 8011-01-P

² 17 CFR 240.19b-4.

³ See Securities Exchange Act Release No. 89308 (July 14, 2020), 85 FR 43923. Comments received on the proposed rule change are available on the Commission's website at: <https://www.sec.gov/comments/sr-cboe-2020-034/srcboe2020034.htm>.

⁴ 15 U.S.C. 78s(b)(2).

⁵ See Securities Exchange Act Release No. 89743, 85 FR 55717 (September 9, 2020).

⁶ 15 U.S.C. 78s(b)(2)(B).

⁷ See Securities Exchange Act Release No. 90204, 85 FR 67037 (October 21, 2020).

⁸ In Amendment No. 1, the Exchange provided additional support for the proposal. The full text of Amendment No. 1 is available on the Commission's website at: <https://www.sec.gov/comments/sr-cboe-2020-034/srcboe2020034.htm>.

⁹ See Securities Exchange Act Release No. 89743, 86 FR 6718 (January 22, 2021). The Commission designated March 17, 2021 as the date by which the Commission shall either approve or disapprove the proposed rule change, as modified by Amendment No. 1.

¹⁰ In Amendment No. 2, the Exchange provided further support and rationale for the proposal. The full text of Amendment No. 2 is available on the Commission's website at: <https://www.sec.gov/comments/sr-cboe-2020-034/srcboe2020034.htm>.

¹¹ 17 CFR 200.30-3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-91141; File No. SR-ICEEU-2020-018]

Self-Regulatory Organizations; ICE Clear Europe Limited; Order Approving Proposed Rule Change as Modified by Partial Amendment No. 1 Relating to Amendments to the ICE Clear Europe CDS Procedures and CDS Default Management Policy.

February 17, 2021.

I. Introduction

On December 14, 2020, ICE Clear Europe Limited ("ICE Clear Europe") filed with the Securities and Exchange Commission ("Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")¹ and Rule 19b-4 thereunder,² a proposed rule change to amend its CDS Procedures and CDS Default Management Policy. The proposed rule change was published for comment in the **Federal Register** on January 4, 2021.³ On December 31, 2020, ICE Clear Europe filed Partial Amendment No. 1 to the proposed rule change. Notice of Partial Amendment No. 1 was published in the **Federal Register** on January 12, 2021.⁴ The Commission did not receive comments on the proposed rule change, as modified by Partial Amendment No. 1. For the reasons discussed below, the Commission is approving the proposed rule change, as modified by Partial Amendment No. 1 (hereinafter, the "proposed rule change").

II. Description of the Proposed Rule Change

As described below, the proposed rule change would amend the CDS Procedures and CDS Default Management Policy primarily related to CDS Default Committee participation. The proposed changes would also clarify certain other provisions to better reflect current practices.⁵

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ Securities Exchange Act Release No. 90806 (December 28, 2020), 86 FR 169 (January 4, 2021) (SR-ICEEU-2020-018) ("Notice").

⁴ Securities Exchange Act Release No. 90861 (January 6, 2021), 86 FR 2472 (January 12, 2021) (SR-ICEEU-2020-018) ("Partial Amendment No. 1"). ICE Clear Europe filed Partial Amendment No. 1 to amend Item 3(a) of the original filing to add an explanation as to the circumstances pursuant to which ICE Clear Europe may permit a CDS Committee-Eligible Clearing Member to postpone participation in the CDS Default Committee. Partial Amendment No. 1 did not otherwise make changes to the substance of the filing, nor did it raise any novel regulatory issues.

⁵ Capitalized terms not otherwise defined herein have the meanings assigned to them in the CDS

¹ 15 U.S.C. 78s(b)(1).

A. CDS Procedures

The proposed rule change would amend the CDS Procedures' definitions to clarify that the term "CDS Committee-Eligible Clearing Members" must be approved in accordance with paragraph 5.2 of the Procedures and continue to meet the criteria of such Paragraph. Paragraph 5.2 would thus be amended to specify the requirements for a Clearing Member to be approved to be a CDS Committee-Eligible Clearing Member. Specifically, the Clearing Member would need to meet the following conditions in order to be eligible: (a) In the event that it has one or more Affiliates that are CDS Clearing Members, it has the longest period of membership of the Clearing House among such Affiliates; (b) it has a London-based CDS trading desk; and (c) it is deemed appropriate to be a CDS Default Committee Member by the Clearing House at its discretion. The amendments to paragraph 5.2 would also be amended to note that the Clearing House would maintain a list of all CDS Committee-Eligible Clearing Members. The procedure for maintaining the CDS Default Committee Participant List (including adding CDS Clearing Members to, removing CDS Clearing Members from or changing the order of Clearing Members on the CDS Default Committee Participant List) would be determined from time to time by the Clearing House at its discretion. (Certain such matters would be addressed in further detail in the Policy, as discussed below.) CDS Clearing Members would be able to provide information of relevance to the Clearing House with respect to their own inclusion or omission or order on the list, but such information would not be binding on the Clearing House. Additionally, the Procedures would state that ICE Clear Europe may also share the CDS Default Committee Participant List with any other clearing house.

Other amendments to section 5 include proposed amendments to paragraph 5.3, which would add that if a CDS Committee-Eligible Clearing Member considers that it is unable to take part in the CDS Default Committee for the Relevant CDS Default Committee Period for which it is due to take part, it may request to postpone its participation for that period. ICE Clear Europe could, at its discretion, approve such request. As described in Partial Amendment No. 1, an acceptable excuse

would most likely relate to temporary resource constraints at the Clearing Member. For example, if the committee member were already serving on the default committee of another clearing house during the relevant period or if a committee member otherwise had limited staffing resources to commit to the committee during that period, this may be considered satisfactory. ICE Clear Europe would expect to discuss the particular situation with the Clearing Member in question and would respond to any request for postponement to let the Clearing Member know whether its rationale was satisfactory. Once postponement is approved, the following events would take place: that CDS Committee-Eligible Clearing Member would be identified to take part in the CDS Default Committee for the next Relevant CDS Default Committee Period as one of the three CDS Default Committee Participants; and one of the next three CDS Committee-Eligible Clearing Members on the CDS Default Committee Participant List would be selected by the Clearing House at its discretion to take part in the CDS Default Committee during that Relevant CDS Default Committee Period. The CDS Default Committee Participant List would be amended accordingly.

Paragraph 5.4 would be amended to add that if a CDS Clearing Member becomes a defaulter or is suspended or receives a termination notice with respect to its Clearing Membership, it would be removed from the CDS Default Committee Participant List. Paragraphs 5.4 and 5.5 would be amended to clarify that the CDS Default Committee Participant List would be amended to take into account any Clearing Member that becomes (or resumes being) a CDS Committee-Eligible Clearing Member or is removed from being a CDS Default Committee Participant because the Clearing House determines that such Clearing Member has a conflict or lacks impartiality.

The amendments in paragraph 5.6 would provide that the Clearing House would give notice that, since CDS Default Committee Members and CDS Default Committee Participants act as part of the governance of ICE Clear Europe, such CDS Default Committee Members and CDS Default Committee Participants would take the benefit of all exclusions and limitations of liability available to the Clearing House under the Rules or Applicable Laws. The change is intended to make the exclusions and limitations on liability for such persons consistent with those

generally applicable to Clearing House governance process.⁶

The amendments in paragraph 5.8 would provide that CDS Clearing Members agree and acknowledge that each CDS Default Committee Member and CDS Default Committee Participant (each a "Covered Party") would be subject to the provisions of Rule 106 (regarding confidentiality of information received and permitted disclosures) as if that Covered Party were the Clearing House. Furthermore, each CDS Clearing Member would be required to ensure that each such Covered Party nominated by it would not use any Confidential Material for its own benefit or the benefit of any of its Affiliates and, if so requested by the Clearing House, would execute any documentation specified by the Clearing House acknowledging the same. The procedures that would apply in the event that a Covered Party is served with or otherwise subject to legal process have been removed as unnecessary in light of the referenced provisions of Rule 106. Paragraph 5.9 would be amended to clarify that each CDS Clearing Member agrees that each Covered Party would be responsible for its own costs associated with its service in such position.

The proposal would also make several changes to the CDS Procedures not related to CDS Default Committee participation. Specifically, the rule proposal would also amend paragraph 4.4 of the Procedures, which describes the timing requirements for submitting CDS Trade Particulars, to clarify that with respect to CDS Trade Particulars submitted after 6:00 p.m. on a Business Day or on a day that is not a Business Day, unless a revocation right exists and is exercised or unless otherwise stated in circular, among other existing exceptions, such CDS Trade Particulars would be deemed to have been submitted at 8:00 a.m. on the following Business Day. Furthermore, the Procedures would provide that if the Trade Date specified in the CDS Trade Particulars is not a Business Day, then the relevant CDS Trade Particulars would be rejected. According to ICE Clear Europe, this reflects current Clearing House practice.⁷

B. CDS Default Management Policy

ICE Clear Europe is proposing to make amendments to its CDS Default Management Policy related to the Default Committee consistent with the CDS Procedures as well as several general clarification amendments to the Policy. First, under the section CDS

Procedures, CDS Default Management Policy or the ICE Clear Europe Rulebook, as applicable. The description that follows is excerpted from the Notice.

⁶ Notice, 86 Federal Register at 170.

⁷ Notice, 86 Federal Register at 169.

Default Committee Activation, consistent with the changes to the CDS Procedures, the proposal would amend the Policy to provide that a Clearing Member would only be defined as Committee-Eligible if such Clearing Member (i) is deemed appropriate by the Clearing House, (ii) is the primary clearing entity of an affiliate group, and (iii) has a London based trading desk. The Policy would also clarify that the Clearing House maintains a list of all CDS Committee-Eligible Clearing Members and that the relevant term for the committee is six calendar months or until the end of any active Default event.

Additionally, the Policy would be amended to provide that in the event that a CDS Default Committee Participant is unable to fulfill its upcoming rotation obligation for any reason including serving in the CDS Default Committee of another clearing house, such CDS Default Committee Participant would have the option to request to postpone their Relevant CDS Default Committee for a Relevant CDS Default Committee Period. If the Clearing House finds the reason for postponement satisfactory, the CDS Default Committee Participant would be substituted for a CDS Committee-Eligible Clearing Member from the next three members on the CDS Default Committee Participant List. Prior to commencement of a rotation, CDS Default Committee Members would be required to have signed all documentation required by the Clearing House (including but not limited to a Seconded Trader Agreement), and the Clearing House would use reasonable efforts to ensure that such requirement is enforced. The amendments would also clarify that CDS Default Committee Members would be responsible for assisting in executing any CDS transactions (with respect to Rules 902 or 903) on behalf of the Clearing House only if needed. Under the Committee Activation Procedures section, the procedure for use of an alternate CDS Default Committee Member contact would be revised to refer generally to a situation where the designated primary representative cannot be reached in a reasonable amount of time, and to remove specific examples of reasons a member could not be reached.

With respect to the Secondment Facilities section, the proposed amendments would clarify that upon arrival at the ICE Clear Europe offices, each CDS Default Committee Member would be assigned a PC with the ICE Clear Europe risk reports concerning the defaulter's portfolio and a third-party data provider application. References to

how the CDS Default Committee Member would be able to login to the PC and view certain information sent to ICE Clear Europe by the non-defaulting Clearing Members would be removed as unnecessary. The amendments would also clarify that CDS Default Committee Members would only execute the hedging and liquidating transactions that the Head of Clearing Risk and the team deem necessary.

The amendments would also remove the requirement that seconded traders sign an additional confidentiality agreement pertaining to their role within a given member default (as ICE Clear Europe believes the existing single secondment agreement is sufficient).⁸ Instead, the Policy would provide that CDS Default Committee Members would be reminded of ongoing confidentiality obligations by the ICE Clear Europe Compliance department.

The amendments would provide that details of the auction and relevant position data will be made available through the ICE Default Management System, consistent with the ICE Clear Europe auction procedures. The amendments would also clarify that following the close of an auction for sub-portfolio, the Clearing House would publish the new trades to be booked to the winning bidders through the ICE Default Management System. The Clearing House would no longer notify the point of contact for the winning bidders verbally. The change is intended to conform to the ICE Clear Europe auction procedures.⁹

The amendments would provide additional detail with respect to default management testing. Specifically, pursuant to the amendments, the Policy would state that the Clearing House would test and review its default procedures at least quarterly and perform simulation exercises at least annually. The default test would be conducted in coordination with Clearing Members by engaging all the internal and external stakeholders that would be involved in the default management process (for example, the Clearing Risk Department, ICE Clear Europe Senior Management Team, CDS Default Committee Members, regulators, etc.). Each default test would be planned in accordance with the ICE Clear Europe Multi-Years Default Plan, which would list several different default scenarios that would need to be tested by the Clearing House on a regular basis. The ICE Clear Europe Senior Management Team would be responsible for approving the scope of

the annual default test by choosing different scenarios outlined in the Plan. The Plan and changes to it would need to be approved by the Executive Risk Committee.

The rule proposal would also amend the Policy with general drafting clarifications and improvements. Specifically, the amendments to the Policy would remove Appendices A and B, which contain various forms of notice and examples, as well as references thereto. In ICE Clear Europe's view, these appendices do not need to be included in the Policy and, to the extent they remain relevant, forms of notice can be maintained by the Clearing House separately.¹⁰ Certain terminology would be updated throughout the Policy as follows: (i) The term, Employee, would be updated to Eligible Employee; and (ii) the terms, Defaulting Clearing Member or Defaulting Member, would be updated to defaulter in certain instances in order to avoid repetition and aid with readability. Certain provisions relating to the Clearing House ceasing to clear new trades for a Defaulting Clearing Member would be moved and renumbered.

III. Discussion and Commission Findings

Section 19(b)(2)(C) of the Act directs the Commission to approve a proposed rule change of a self-regulatory organization if it finds that such proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to such organization.¹¹ For the reasons given below, the Commission finds that the proposed rule change is consistent with Section 17A(b)(3)(F) of the Act¹² and Rules 17Ad-22(e)(3)(i) and (e)(13) thereunder.¹³

A. Consistency With Section 17A(b)(3)(F) of the Act

Section 17A(b)(3)(F) of the Act requires, among other things, that the rules of ICE Clear Europe be designed to promote the prompt and accurate clearance and settlement of securities transactions and, to the extent applicable, derivative agreements, contracts, and transactions, as well as to assure the safeguarding of securities and funds which are in the custody or control of ICE Clear Europe or for which it is responsible.¹⁴

¹⁰ Notice, 86 Federal Register at 170.

¹¹ 15 U.S.C. 78s(b)(2)(C).

¹² 15 U.S.C. 78q-1(b)(3)(F).

¹³ 17 CFR 240.17 Ad-22(e)(3)(i), (e)(13).

¹⁴ 15 U.S.C. 78q-1(b)(3)(F).

⁸ Notice, 86 Federal Register at 170.

⁹ Notice, 86 Federal Register at 171.

As noted above, ICE Clear Europe utilizes seconded representatives of Clearing Members to serve on ICE Clear Europe's CDS Default Committee to manage the portfolios of defaulting clearing members. The proposed rule changes would update and clarify the requirements for a Clearing Member to be eligible to serve on the CDS Default Committee as well as clarify the procedures to be used by the CDS Default Committee if such Clearing Member is unable to fulfill its upcoming rotation obligation. The proposed rule changes also describe the process ICE Clear Europe follows when a CDS Committee-Eligible Clearing Member is unable to take part in the CDS Default Committee. The proposed changes also make various changes to the procedures clarifying the fact that CDS Default Committee Members and participants are subject to confidentiality requirements and that these participants have the benefit of all exclusions and limitations of liability available to ICE Clear Europe. Further, the CDS Policy changes clarify the detailed resources available to CDS Default Committee Members necessary for carrying out their functions.

Taken together, the Commission believes that these changes and clarifications with respect to CDS Default Committee participation and the process for when a CDS Committee-Eligible Clearing Member cannot participate in the CDS Default Committee should allow ICE Clear Europe to better ensure that the committee is comprised of participants who possess the requisite knowledge and experience to assist in a default management process. The Commission, in turn, believes that this should help ICE Clear Europe more effectively manage defaults, ensuring ICEEU's ability to continue functioning, thereby promoting the prompt and accurate clearance and settlement of transactions.

For the reasons stated above, the Commission finds that the proposed rule change is consistent with the Section 17A(b)(3)(F) of the Act.¹⁵

B. Consistency With Rule 17Ad-22(e)(13)

Rule 17Ad-22(e)(13) requires that ICE Clear Europe establish, implement, maintain and enforce written policies and procedures reasonably designed, as applicable, to ensure ICE Clear Europe has the authority and operational capacity to take timely action to contain losses and liquidity demands and continue to meet its obligations by, at a minimum, requiring its Clearing

Members and, when practicable, other stakeholders to participate in the testing and review of its default procedures, including any close-out procedures, at least annually and following material changes thereto.¹⁶

As noted above, the proposed changes to the CDS Procedures would define the requirements for Clearing Members to become eligible to participate in the CDS Default Committee as well as the process for addressing situations when parties postpone their participation will ensure that the committee is staffed with appropriate representatives. The Commission believes that these changes should help to ensure ICE Clear Europe has the operational capacity to take timely action to contain losses.

In addition, as noted above, the proposed rule change would revise the CDS Default Management Policy to specify that it will engage in testing and review of its default procedures at least quarterly and perform simulation exercises as least annually, which is conducted in coordination with its clearing members as well as internal stakeholders such as the Clearing Risk Department, senior clearing house management, and the CDS Default Committee. Further, the Policy would be amended to state that these default tests would be planned to take into account various scenarios that are tested and approved by the stakeholders, including senior management. The Commission believes that this additional detail regarding the testing of ICE Clear Europe's default procedures would support ICE Clear Europe's ability to meet its obligations through regular testing and review of its default procedures with the requisite stakeholders.

For these reasons, the Commission finds that the proposed rule change is consistent with Rule 17Ad-22(e)(13).¹⁷

IV. Conclusion

On the basis of the foregoing, the Commission finds that the proposed rule change is consistent with the requirements of the Act, and in particular, with the requirements of Section 17A(b)(3)(F) of the Act¹⁸ and Rules 17Ad-22(e)(3)(i) and (e)(13).¹⁹

It is therefore ordered pursuant to Section 19(b)(2) of the Act²⁰ that the proposed rule change, as modified by Partial Amendment No. 1 (SR-ICEEU-

2020-018), be, and hereby is, approved.²¹

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.²²

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2021-03493 Filed 2-19-21; 8:45 am]

BILLING CODE 8011-01-P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #16815 and #16816; Pennsylvania Disaster Number PA-00108]

Administrative Declaration Amendment of a Disaster for the Commonwealth of Pennsylvania

AGENCY: U.S. Small Business Administration.

ACTION: Amendment 1.

SUMMARY: This is an amendment of the Administrative declaration of a disaster for the Commonwealth of Pennsylvania dated 12/18/2020.

Incident: Tropical Storm Isaias.

Incident Period: 08/04/2020.

DATES: Issued on 02/17/2021.

Physical Loan Application Deadline Date: 03/18/2021.

Economic Injury (EIDL) Loan Application Deadline Date: 09/20/2021.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT:

A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street SW, Suite 6050, Washington, DC 20416, (202) 205-6734.

SUPPLEMENTARY INFORMATION: The notice of an Administrative declaration for the Commonwealth of Pennsylvania, dated 12/18/2020 is hereby amended to extend the deadline for filing applications for physical damages as a result of this disaster to 03/18/2021.

All other information in the original declaration remains unchanged.

(Catalog of Federal Domestic Assistance Number 59008)

Tami Perriello,

Acting Administrator.

[FR Doc. 2021-03530 Filed 2-19-21; 8:45 am]

BILLING CODE 8026-03-P

¹⁶ 15 U.S.C. 17Ad-22(e)(13).

¹⁷ 15 U.S.C. 17Ad-22(e)(13).

¹⁸ 15 U.S.C. 78q-1(b)(3)(F).

¹⁹ 17 CFR 240.17Ad-22(e)(3)(i) and (e)(13).

²⁰ 15 U.S.C. 78s(b)(2).

²¹ In approving the proposed rule change, the Commission considered the proposal's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

²² 17 CFR 200.30-3(a)(12).

¹⁵ 15 U.S.C. 78q-1(b)(3)(F).

SMALL BUSINESS ADMINISTRATION

[License No. 05/05–0289]

**Bayview Capital Partners II, L.P.;
Surrender of License of Small
Business Investment Company**

Pursuant to the authority granted to the United States Small Business Administration under the Small Business Investment Act of 1958, as amended, under Section 309 of the Act and Section 107.1900 of the Small Business Administration Rules and Regulations (13 CFR 107.1900) to function as a small business investment company under the Small Business Investment Company License No. 05/05–0289 issued to Bayview Capital Partners II, LP, said license is hereby declared null and void.

United States Small Business Administration.

Thomas G. Morris,

*Acting Associate Administrator, Director,
Office of Liquidation Office of Investment and
Innovation.*

[FR Doc. 2021–03471 Filed 2–19–21; 8:45 am]

BILLING CODE P

DEPARTMENT OF STATE

[Public Notice:11364]

**Notice of Determinations; Culturally
Significant Objects Being Imported for
Exhibition—Determinations: “Soutine/
de Kooning: Conversations in Paint”
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 “Soutine/de Kooning: Conversations in Paint” at The Barnes Foundation, Philadelphia, Pennsylvania and at possible additional exhibitions or venues yet to be determined, are of cultural significance, and, further, that their temporary exhibition or display within the United States as aforementioned is in the national interest. I have ordered that Public Notice of these determinations be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Chi D. Tran, Program Administrator, Office of the Legal Adviser, U.S. Department of State (telephone: 202–632–6471; email: section2459@state.gov). The mailing address is U.S. Department of State, L/PD, SA–5, Suite 5H03, Washington, DC 20522–0505.

SUPPLEMENTARY INFORMATION: The foregoing determinations were made

pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985; 22 U.S.C. 2459), E.O. 12047 of March 27, 1978, the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681, *et seq.*; 22 U.S.C. 6501 note, *et seq.*), Delegation of Authority No. 234 of October 1, 1999, and Delegation of Authority No. 236–3 of August 28, 2000.

Matthew R. Lussenhop,

*Acting Assistant Secretary, Bureau of
Educational and Cultural Affairs, Department
of State.*

[FR Doc. 2021–03638 Filed 2–19–21; 8:45 am]

BILLING CODE 4710–05–P

DEPARTMENT OF STATE

[Public Notice 11356]

**30-Day Notice of Proposed Information
Collection: Supplemental SIV Chief of
Mission Application**

ACTION: Notice of request for public comment.

SUMMARY: The Department of State is seeking Office of Management and Budget (OMB) approval for the information collection described below. In accordance with the Paperwork Reduction Act of 1995 and implementing OMB guidance, we are requesting comments on this collection from all interested individuals and organizations. The purpose of this notice is to allow 30 days for public comment preceding submission of the collection to OMB.

DATES: The Department will accept comments from the public up to *March 24, 2021*.

ADDRESSES: Direct comments to the Department of State Desk Officer in the Office of Information and Regulatory Affairs at OMB. You may submit comments by the following methods:

- *Email:* oir_submission@omb.eop.gov. You must include the DS form number, information collection title, and the OMB control number in the subject line of your message.
- *Fax:* 202–395–5806. *Attention:* Desk Officer for Department of State.

FOR FURTHER INFORMATION CONTACT: Direct requests for additional information regarding the collection listed in this notice, including requests for copies of the proposed collection instrument and supporting documents, to Megan Herndon, Senior Regulatory Coordinator, Visa Services, Bureau of Consular Affairs at PRA_BurdenComments@state.gov or over telephone at (202)–485–7586.

SUPPLEMENTARY INFORMATION:

- *Title of Information Collection:* Supplemental SIV Chief of Mission Application.
- *OMB Control Number:* 1405–0134.
- *Type of Request:* Extension of a Currently Approved Collection.
- *Originating Office:* Bureau of Consular Affairs, Visa Office (CA/VO).
- *Form Number:* DS–157.
- *Respondents:* Afghan Special Immigrant Visa Applicants.
- *Estimated Number of Respondents:* 4,344.
- *Estimated Number of Responses:* 4,344.
- *Average Time per Response:* 1 hour.
- *Total Estimated Burden Time:* 4,344 hours.
- *Frequency:* Once per respondent.
- *Obligation to Respond:* Required to Obtain or Retain a Benefit.

We are soliciting public comments to permit the Department to:

- Evaluate whether the proposed information collection is necessary for the proper functions of the Department.
- 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.
- Enhance the quality, utility, and clarity of the information to be collected.
- Minimize the reporting burden on those who are to respond, including the use of automated collection techniques or other forms of information technology.

Please note that comments submitted in response to this Notice are public record. Before including any detailed personal information, you should be aware that your comments as submitted, including your personal information, will be available for public review.

Abstract of Proposed Collection

Department of State uses Form DS–157 (Supplemental SIV Chief of Mission Application) in order to facilitate the Chief of Mission approval process required for special immigrant visa (SIV) applicants under section 602(b) of the Afghan Allies Protection Act of 2009 (Pub. L. 111–8). The information requested on the form is limited to that which the Chief of Mission uses to evaluate eligibility of SIV applicants. The DS–157 is only used by Afghan SIV applicants for Chief of Mission approval.

Methodology

Applicants are required to complete the DS–157, along with other required documentation, and to submit their

package to the appropriate SIV email address.

Julie M. Stuft,

Acting Deputy Assistant Secretary, Bureau of Consular Affairs, Department of State.

[FR Doc. 2021-03473 Filed 2-19-21; 8:45 am]

BILLING CODE 4710-06-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Summary Notice No. FAA-2020-63]

Petition for Exemption; Summary of Petition Received; National United States Armed Forces Museum

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

ACTION: Notice.

SUMMARY: This notice contains a summary of a petition seeking relief from specified requirements of Federal Aviation Regulations. The purpose of this notice is to improve the public's awareness of, and participation in, the FAA's exemption process. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of the petition or its final disposition.

DATES: Comments on this petition must identify the petition docket number and must be received on or before March 15, 2021.

ADDRESSES: Send comments identified by docket number FAA-2019-0736 using any of the following methods:

- *Federal eRulemaking Portal:* Go to <http://www.regulations.gov> and follow the online instructions for sending your comments electronically.

- *Mail:* Send comments to Docket Operations, M-30; U.S. Department of Transportation, 1200 New Jersey Avenue SE, Room W12-140, West Building Ground Floor, Washington, DC 20590-0001.

- *Hand Delivery or Courier:* Take comments to Docket Operations in Room W12-140 of the West Building Ground Floor at 1200 New Jersey Avenue SE, Washington, DC 20590-0001, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

- *Fax:* Fax comments to Docket Operations at (202) 493-2251.

Privacy: In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal

information the commenter provides, to <http://www.regulations.gov>, as described in the system of records notice (DOT/ALL-14 FDMS), which can be reviewed at <http://www.dot.gov/privacy>.

Docket: Background documents or comments received may be read at <http://www.regulations.gov> at any time. Follow the online instructions for accessing the docket or go to the Docket Operations in Room W12-140 of the West Building Ground Floor at 1200 New Jersey Avenue SE, Washington, DC 20590-0001, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT:

Brent Hart (202) 267-4034, Office of Rulemaking, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591.

This notice is published pursuant to 14 CFR 11.85.

Issued in Washington, DC.

Timothy R. Adams,

Deputy Executive Director, Office of Rulemaking.

Petition for Exemption

Docket No.: FAA-2019-0736.

Petitioner: National United States Armed Forces Museum.

Section(s) of 14 CFR Affected: §§ 91.9, 91.315, 91.319(a), 119.5(g), and 119.21(a).

Description of Relief Sought: The National United States Armed Forces Museum seeks relief from the above regulations to the extent necessary to operate the museum's aircraft for the purpose of carrying passengers for compensation or hire for living history flight experiences.

[FR Doc. 2021-03508 Filed 2-19-21; 8:45 am]

BILLING CODE 4910-13-P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket Number FRA-2021-0019]

Petition for Waiver of Compliance

Under part 211 of title 49 of the Code of Federal Regulations (CFR), this document provides the public notice that on January 26, 2021, Norfolk Southern Corporation (NS), petitioned the Federal Railroad Administration (FRA) for 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. FRA assigned the petition Docket Number FRA-2021-0019.

Specifically, NS requests relief from 49 CFR 236.566, *Locomotive of each train operating in train stop, train control or cab signal territory; equipped.* The relief is requested for the Fort Wayne Line in the Keystone Division, from milepost (MP) PC 0.0 to MP PC 28.1. NS seeks to operate positive train control (PTC) equipped locomotives, that are not equipped with cab signal system equipment, in cab signal system territory.

NS states that PTC-equipped locomotives are to be used in switching, transfer service, with or without cars, manifest trains, work trains, wreck trains, ballast cleaners and from work, and engines and rail diesel cars moving to and from shops with all movements made at timetable speed. If a PTC-equipped locomotive experiences an en route failure, then 49 CFR 236.1029, *PTC system use and failures*, would apply.

A copy of the petition, as well as any written communications concerning the petition, is available for review online at <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 parties desire 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.

- *Hand Delivery:* 1200 New Jersey Ave. SE, Room W12-140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.

Communications received by April 8, 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, as described in the system of records notice (DOT/ALL-14 FDMS), which can be reviewed at <https://www.transportation.gov/privacy>. See also <http://www.regulations.gov/#!privacyNotice> for the privacy notice of [regulations.gov](http://www.regulations.gov).

Issued in Washington, DC.

John Karl Alexy,

*Associate Administrator for Railroad Safety,
Chief Safety Officer.*

[FR Doc. 2021-03486 Filed 2-19-21; 8:45 am]

BILLING CODE 4910-06-P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket Number FRA-2021-0024]

Petition for Waiver of Compliance

Under part 211 of title 49 Code of Federal Regulations (CFR), this document provides the public notice that on February 1, 2021, Sandersville Railroad Company (SAN) petitioned the Federal Railroad Administration (FRA) for a waiver of compliance from certain provisions of the Federal railroad safety regulations contained at 49 CFR part 237, Bridge Safety Standards. FRA assigned the petition Docket Number FRA-2021-0024.

Specifically, SAN seeks relief from the requirements of 49 CFR 237.31, *Adoption of bridge management programs*. SAN's requested relief would include continuing the use of a scale inspector rather than a railroad bridge inspector for annual bridge inspections.

SAN owns and operates 35 miles of track and has one railroad bridge, which is a weigh-in-motion scale with a maximum authorized speed of 6 miles per hour. The scale provides accurate weights for customers using SAN's sidings and for Norfolk Southern Corporation (NS) to ensure it does not exceed weight restrictions for its intended routes or railcar weight limits. No railcars containing hazardous materials operate over the scale. SAN claims the scale was designed to meet American Railway Engineering and Maintenance-of-Way Association, Association of American Railroads, and Cooper E-80 design specifications.

SAN states that an NS railroad scale inspector inspects the scale annually and provides a report that details any structural deficiencies found that could jeopardize the safety of the scale. SAN believes that its current method of inspection, which has been in place for twenty years, provides a more knowledgeable and less costly inspection than would be required by 49 CFR part 237.

A copy of the petition, as well as any written communications concerning the petition, is available for review online at 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 parties desire 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.
- *Hand Delivery:* 1200 New Jersey Ave. SE, Room W12-140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.

Communications received by April 8, 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, 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/>

privacyNotice for the privacy notice of [regulations.gov](http://www.regulations.gov).

Issued in Washington, DC.

John Karl Alexy,

*Associate Administrator for Railroad Safety,
Chief Safety Officer.*

[FR Doc. 2021-03484 Filed 2-19-21; 8:45 am]

BILLING CODE 4910-06-P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket Number FRA-2021-0020]

Petition for Waiver of Compliance

Under part 211 of title 49 of the Code of Federal Regulations (CFR), this document provides the public notice that on January 26, 2021, Norfolk Southern Corporation (NS), petitioned the Federal Railroad Administration (FRA) for 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. FRA assigned the petition Docket Number FRA-2021-0020.

Specifically, NS requests relief from 49 CFR 236.566, *Locomotive of each train operating in train stop, train control or cab signal territory; equipped*. The relief is requested for the Morrisville Line in the Keystone Division, from control point (CP) John milepost (MP) MV 4.7 to CP King MP MV 30.1. NS seeks to operate positive train control (PTC) equipped locomotives, that are not equipped with cab signal system equipment, in cab signal system territory.

PTC-equipped locomotives are to be used in switching, transfer service, with or without cars, manifest trains, work trains, wreck trains, ballast cleaners to and from work, and engines and rail diesel cars moving to and from shops, with all movements made at timetable speed. If a PTC-equipped locomotive experiences an en route failure, then 49 CFR 236.1029, *PTC system use and failures*, would apply.

A copy of the petition, as well as any written communications concerning the petition, is available for review online at <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 parties desire 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.

• *Hand Delivery:* 1200 New Jersey Ave. SE, Room W12-140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.

Communications received by April 8, 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, as described in the system of records notice (DOT/ALL-14 FDMS), which can be reviewed at <https://www.transportation.gov/privacy>. See also <http://www.regulations.gov/#!privacyNotice> for the privacy notice of www.regulations.gov.

Issued in Washington, DC.

John Karl Alexy,

Associate Administrator for Railroad Safety, Chief Safety Officer.

[FR Doc. 2021-03487 Filed 2-19-21; 8:45 am]

BILLING CODE 4910-06-P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket Number FRA-2000-7137]

Petition for Waiver of Compliance

Under part 211 of title 49 Code of Federal Regulations (CFR), this document provides the public notice that on February 10, 2021, San Diego

Trolley Incorporated (SDTI) submitted a supplemental petition to the Federal Railroad Administration (FRA) for additional waivers of compliance from certain provisions of the Federal railroad safety regulations contained at 49 CFR parts 270 and 243. FRA assigned the petition Docket Number FRA-2000-7137.

In its petition dated December 21, 2020, SDTI seeks a five-year extension of its existing waiver with certain modifications. The existing waiver covers several sections of the Federal railroad safety regulations and applies to certain portions of SDTI's rail fixed guideway urban transit operations that employ temporal separation to safely share track with the general railroad system's San Diego & Imperial Valley Railroad. Contiguous to the shared trackage are portions with limited connections to the general railroad system, which include a small shared corridor with BNSF Railway and Coaster commuter train service. Coaster also shares a storage yard with SDTI.

In SDTI's supplemental request, dated February 10, 2021, SDTI seeks additional relief from 49 CFR part 270, System Safety Program, and 49 CFR part 243, Training, Qualification, and Oversight for Safety-Related Railroad Employees. SDTI states that the foundation of SDTI's safety program is based on alternative regulations under 49 CFR parts 673 and 674, which are equivalent to FRA's requirements. SDTI explains it requests a waiver to prevent duplicative and redundant requirements.

A copy of the petition, as well as any written communications concerning the petition, is available for review online at 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 parties desire 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.

• *Hand Delivery:* 1200 New Jersey Ave. SE, Room W12-140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Communications received by April 8, 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, as described in the system of records notice (DOT/ALL-14 FDMS), which can be reviewed at <https://www.transportation.gov/privacy>. See also <http://www.regulations.gov/privacyNotice> for the privacy notice of www.regulations.gov.

Issued in Washington, DC.

John Karl Alexy,

Associate Administrator for Railroad Safety, Chief Safety Officer.

[FR Doc. 2021-03485 Filed 2-19-21; 8:45 am]

BILLING CODE 4910-06-P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket Number FRA-2021-0021]

Petition for Waiver of Compliance

Under part 211 of title 49 of the Code of Federal Regulations (CFR), this document provides the public notice that on January 26, 2021, Norfolk Southern Corporation (NS), petitioned the Federal Railroad Administration (FRA) for 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. FRA assigned the petition Docket Number FRA-2021-0021.

Specifically, NS requests relief from 49 CFR 236.566, *Locomotive of each train operating in train stop, train control or cab signal territory; equipped.* The relief is requested for the Royalton

Branch in the Keystone Division, from milepost (MP) RY 0.0 to MP RY 21.9. NS seeks to operate positive train control (PTC) equipped locomotives, that are not equipped with cab signal system equipment, in cab signal system territory.

PTC-equipped locomotives are to be used in switching, transfer service, with or without cars, manifest trains, work trains, wreck trains, ballast cleaners to and from work, and engines and rail diesel cars moving to and from shops, with all movements made at timetable speed. NS states that if a PTC-equipped locomotive experiences an en route failure, then 49 CFR 236.1029, *PTC system use and failures*, would apply.

A copy of the petition, as well as any written communications concerning the petition, is available for review online at <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 parties desire 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.
- *Hand Delivery:* 1200 New Jersey Ave. SE, Room W12-140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.

Communications received by April 8, 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, as described in the system of records notice (DOT/ALL-14 FDMS), which can be reviewed at <https://www.transportation.gov/privacy>. See also <http://www.regulations.gov/#!privacyNotice> for the privacy notice of www.regulations.gov.

Issued in Washington, DC.

John Karl Alexy,

*Associate Administrator for Railroad Safety,
Chief Safety Officer.*

[FR Doc. 2021-03488 Filed 2-19-21; 8:45 am]

BILLING CODE 4910-06-P

DEPARTMENT OF THE TREASURY

Agency Information Collection Activities; Proposed Collection; Comment Request; Improving Customer Experience (OMB Circular A-11, Section 280 Implementation)

AGENCY: Departmental Offices, U.S. Department of the Treasury.

ACTION: Notice.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other federal agencies to comment on the proposed information collection listed below, in accordance with the Paperwork Reduction Act of 1995.

DATES: Written comments must be received on or before April 23, 2021.

ADDRESSES: Send comments regarding the burden estimate, or any other aspect of the information collection, including suggestions for reducing the burden, to Treasury PRA Clearance Officer, 1750 Pennsylvania Ave. NW, Suite 8142, Washington, DC 20220, or email at PRA@treasury.gov.

FOR FURTHER INFORMATION CONTACT:

Copies of the submissions may be obtained from Molly Stasko by emailing PRA@treasury.gov, calling (202) 622-8922, or viewing the entire information collection request at www.reginfo.gov.

SUPPLEMENTARY INFORMATION:

Title: Improving Customer Experience (OMB Circular A-11, Section 280 Implementation).

OMB Control Number: 1505-NEW.

Type of Review: New collection.

Description: 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 Department 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 Department 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 to help build transparency and accountability of Federal programs to the customers they serve.

As a general matter, these information collections will not result in any new system of records containing privacy information and will not ask questions of a sensitive nature, such as sexual behavior and attitudes, religious beliefs, and other matters that are commonly considered private.

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.

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: 712,000.

Average Number of Responses per Activity: 1 response per respondent per activity.

Estimated Number of Responses: 712,000.

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 2 hours to participate in an interview.

Estimated Total Annual Burden Hours: 190,750.

Request For Comments: Comments submitted in response to this notice will be summarized and included in the request for Office of Management and Budget approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to

enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services required to provide information.

Authority: 44 U.S.C. 3501 *et seq.*

Dated: February 16, 2021.

Molly Stasko,

Treasury PRA Clearance Officer.

[FR Doc. 2021-03458 Filed 2-19-21; 8:45 am]

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Part II

Department of the Interior

Fish and Wildlife Service
50 CFR Part 20

Migratory Bird Hunting; Proposed 2021–22 Frameworks, and Special
Procedures for Issuance of Annual Hunting Regulations; Proposed Rule

DEPARTMENT OF THE INTERIOR**Fish and Wildlife Service****50 CFR Part 20**

[Docket No. FWS–HQ–MB–2020–0032;
FF09M21200–212–FXMB1231099BPP0]

RIN 1018–BE34

**Migratory Bird Hunting; Proposed
2021–22 Frameworks, and Special
Procedures for Issuance of Annual
Hunting Regulations**

AGENCY: Fish and Wildlife Service,
Interior.

ACTION: Proposed rule; supplemental.

SUMMARY: The U.S. Fish and Wildlife Service (Service or we) is proposing to establish the 2021–22 hunting regulations for certain migratory game birds, and make a minor change to the special procedures for issuance of annual hunting regulations. We annually prescribe outside limits, frameworks, within which States may select hunting seasons. Frameworks specify the outside dates, season lengths, shooting hours, bag and possession limits, and areas where migratory game bird hunting may occur. These frameworks are necessary to allow State selections of seasons and limits and to allow harvest at levels compatible with migratory game bird population status and habitat conditions. Migratory game bird hunting seasons provide opportunities for recreation and sustenance, and aid Federal, State, and Tribal governments in the management of migratory game birds.

DATES: You must submit comments on the proposed migratory bird hunting frameworks and special procedures for issuance of annual hunting regulations by March 24, 2021.

ADDRESSES: *Comments:* You may submit comments on the proposals by one of the following methods:

- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the instructions for submitting comments on Docket No. FWS–HQ–MB–2020–0032.

- *U.S. Mail:* Public Comments Processing, Attn: FWS–HQ–MB–2020–0032; U.S. Fish and Wildlife Service, MS: JAO/3W, 5275 Leesburg Pike, Falls Church, VA 22041–3803.

We will not accept emailed or faxed comments. We will post all comments on <http://www.regulations.gov>. This generally means that we will post any personal information you provide us (see Review of Public Comments and

Flyway Council Recommendations, below, for more information).

FOR FURTHER INFORMATION CONTACT: Jerome Ford, U.S. Fish and Wildlife Service, Department of the Interior, (202) 208–1050.

SUPPLEMENTARY INFORMATION: The process for promulgating annual regulations for the hunting of migratory game birds involves the publication of a series of proposed and final rulemaking documents. In this proposed rule, in addition to our normal procedure of setting forth proposed frameworks for the annual hunting regulations (described below), we are also proposing minor changes to the permanent regulations that govern the migratory bird hunting program. The annual regulations are set forth in subpart K of part 20 of the regulations in title 50 of the Code of Federal Regulations (CFR). In this document, we also propose minor changes to subpart N of 50 CFR part 20, as follows:

**Proposed Changes to Regulations at 50
CFR Part 20 (Subpart N)**

The regulations governing special procedures for issuance of annual hunting regulations are at 50 CFR part 20, subpart N. The rules of subpart N apply only to subpart K regarding the issuance of the annual regulations establishing seasons, bag limits, and other requirements for the seasonal hunting of migratory birds.

In subpart N, the current regulations require that the Service publish a notice of meetings of the Service’s Regulations Committee and the Flyway Councils in the process of developing frameworks for migratory bird hunting seasons. Specifically, notice of each meeting of the Regulations Committee and Flyway Council to be attended by any official of the Department of the Interior will be published in the **Federal Register** at least 2 weeks before the meeting or as soon as practicable after the Service learns of the Flyway Council meeting.

In addition to or in place of publishing a meeting notice in the **Federal Register**, we propose to add that we post on the Service’s Migratory Bird Program website as a method to notify the public of these meetings. We are proposing this change because it will increase our ability to provide more timely information as meeting information becomes available, and more flexibility to inform the public of changes in meeting dates and locations should such changes be necessary. Greater flexibility has become critical when unforeseen exigencies require venue changes for these meetings.

**Process for Establishing Annual
Migratory Game Bird Hunting
Regulations (Subpart K)**

As part of the Department of the Interior’s retrospective regulatory review, in 2015 we developed a schedule for migratory game bird hunting regulations that is more efficient and establishes hunting season dates earlier than was possible under the previous process. Under the current process, we develop proposed hunting season frameworks for a given year in the fall of the prior year. We then finalize those frameworks a few months later, thereby enabling the State agencies to select and publish their season dates in early summer. We provided a detailed overview of the current process in the August 3, 2017, **Federal Register** (82 FR 36308). This proposed rule is the second in a series of proposed and final rules that establish regulations for the 2021–22 migratory bird-hunting season.

Regulations Schedule for 2021

On October 9, 2020, we published in the **Federal Register** (85 FR 64097) a proposal to amend 50 CFR part 20. The proposal provided a background and overview of the migratory bird hunting regulations process, and addressed the establishment of seasons, limits, and other regulations for hunting migratory game birds under §§ 20.101 through 20.107, 20.109, and 20.110 of subpart K. This document is the second in a series of proposed and final rules for migratory game bird hunting regulations. Major steps in the 2021–22 regulatory cycle relating to open public meetings and **Federal Register** notifications were illustrated in the diagram at the end of the October 9, 2020, proposed rule. For this regulatory cycle, we have combined elements of the document that is described in the diagram as Supplemental Proposals with the document that is described as Proposed Season Frameworks.

Further, in the October 9, 2020, proposed rule we explained that all sections of subsequent documents outlining hunting frameworks and guidelines would be organized under numbered headings, which were set forth at 85 FR 64097. This and subsequent documents will refer only to numbered items requiring attention. We will omit those items not requiring attention, and remaining numbered items may be discontinuous and appear incomplete.

We provided the meeting dates and locations for the Service Regulations Committee (SRC) and Flyway Council meetings on Flyway calendars posted on

our website at <https://www.fws.gov/birds/management/flyways.php>. We announced the April SRC meeting in the April 9, 2020, **Federal Register** (84 FR 14130). The October 9, 2020, proposed rule provided detailed information on the proposed 2021–22 regulatory schedule and announced the October SRC meeting. The SRC conducted an open meeting with the Flyway Council Consultants on April 28, 2020, to discuss preliminary issues for the 2021–22 regulations, and on October 20–21, 2020, to review information on the current status of migratory game birds and develop recommendations for the 2021–22 regulations for these species.

This supplemental proposed rule provides the regulatory alternatives for the 2021–22 duck hunting season, and provides proposed frameworks for the 2021–22 migratory bird hunting season. It will lead to final frameworks from which States may select season dates, shooting hours, areas, and limits. We have considered all pertinent comments received through October 2020, which includes comments submitted in response to our October 9 proposed rulemaking document and comments from the October SRC meeting. In addition, new proposals for certain regulations are provided for public comment. The comment period is specified above under **DATES**. We anticipate publishing final regulatory frameworks for migratory game bird hunting in the **Federal Register** around February 2021.

Population Status and Harvest

Each year we publish reports that provide detailed information on the status and harvest of certain migratory game bird species. These reports are available at the address indicated under **FOR FURTHER INFORMATION CONTACT** or from our website at <https://www.fws.gov/birds/surveys-and-data/reports-and-publications/population-status.php>.

We used the following annual reports published in August 2020 in the development of proposed frameworks for the migratory bird hunting regulations: Adaptive Harvest Management, 2021 Hunting Season; American Woodcock Population Status, 2020; Band-tailed Pigeon Population Status, 2020; Migratory Bird Hunting Activity and Harvest During the 2018–19 and 2019–20 Hunting Seasons; Mourning Dove Population Status, 2020; Status and Harvests of Sandhill Cranes, Mid-continent, Rocky Mountain, Lower Colorado River Valley and Eastern Populations, 2020; and Waterfowl Population Status, 2020.

Our long-term objectives continue to include providing opportunities to harvest portions of certain migratory game bird populations and to limit harvests to levels compatible with each population's ability to maintain healthy, viable numbers. Migratory game bird hunting seasons provide opportunities for recreation and sustenance, and aid Federal, State, and Tribal governments in the management of migratory game birds. Having taken into account the zones of temperature and the distribution, abundance, economic value, breeding habits, and times and lines of flight of migratory birds, we conclude that the proposed hunting seasons provided for herein are compatible with the current status of migratory bird populations and long-term population goals. Additionally, we are obligated to, and do, give serious consideration to all information received during the public comment period.

Review of Public Comments and Flyway Council Recommendations

The preliminary proposed rulemaking, which appeared in the October 9, 2020, **Federal Register**, opened the public comment period for migratory game bird hunting regulations and described the proposed regulatory alternatives for the 2021–22 duck hunting season. Comments and recommendations are summarized below and numbered in the order used in the October 9, 2020, proposed rule (see 85 FR 64097).

We received recommendations from all four Flyway Councils at the April and October SRC meetings; all recommendations are from the October meeting unless otherwise noted. Some recommendations supported continuation of last year's frameworks. Due to the comprehensive nature of the annual review of the frameworks performed by the Councils, support for continuation of last year's frameworks is assumed for items for which no recommendations were received. Council recommendations for changes in the frameworks are summarized below. As explained earlier in this document, we have included only the numbered items pertaining to issues for which we received recommendations. Consequently, the issues do not follow in successive numerical order.

We seek additional information and comments on the recommendations in this supplemental proposed rule. New proposals and modifications to previously described proposals are discussed below. Wherever possible, they are discussed under headings

corresponding to the numbered items in the October 9, 2020, proposed rule.

General

Written Comments: Several commenters protested the entire migratory bird hunting regulations process, the killing of all migratory birds, and questioned the status and habitat data on which the migratory bird hunting regulations are based.

Service Response: As we indicated above under Population Status and Harvest, our long-term objectives continue to include providing opportunities to harvest portions of certain migratory game bird populations and to limit harvests to levels compatible with each population's ability to maintain healthy, viable numbers. Sustaining migratory bird populations and ensuring a variety of sustainable uses, including harvest, is consistent with the guiding principles by which migratory birds are to be managed under the conventions between the United States and several foreign nations for the protection and management of these birds. We have taken into account available information and considered public comments and continue to conclude that the hunting seasons provided for herein are compatible with the current status of migratory bird populations and long-term population goals. In regard to the regulations process, the Flyway Council system of migratory bird management has been a longstanding example of State-Federal cooperative management since its establishment in 1952 in regulation development process and bird population and habitat monitoring. However, as always, we continue to seek new ways to streamline and improve the process and ensure adequate conservation of the resource.

1. Ducks

A. General Harvest Strategy

Council Recommendations: The Atlantic, Mississippi, Central, and Pacific Flyway Councils recommended adoption of the liberal regulatory alternative for their respective flyways.

Service Response: As we stated in the October 9, 2020, proposed rule, we intend to continue use of Adaptive Harvest Management (AHM) to help determine appropriate duck-hunting regulations for the 2021–22 season. AHM is a tool that permits sound resource decisions in the face of uncertain regulatory impacts and provides a mechanism for reducing that uncertainty over time. We use an AHM protocol (decision framework) to evaluate four regulatory alternatives,

each with a different expected harvest level, and choose the optimal regulation for duck hunting based on the status and demographics of mallards for the Mississippi, Central, and Pacific Flyways, and based on the status and demographics of a suite of four species (eastern waterfowl) in the Atlantic Flyway (see below, and the earlier referenced report “Adaptive Harvest Management, 2021 Hunting Season” for more details). We have specific AHM protocols that guide appropriate bag limits and season lengths for species of special concern, including black ducks, scaup, and pintails, within the general duck season. These protocols use the same outside season dates and lengths as those regulatory alternatives for the 2021–22 general duck season.

For the 2021–22 hunting season, we will continue to use independent optimizations to determine the appropriate regulatory alternative for mallard stocks in the Mississippi, Central, and Pacific Flyways and for eastern waterfowl in the Atlantic Flyway. This means that we will develop regulations for mid-continent mallards, western mallards, and eastern waterfowl independently based on the breeding stock(s) that contributes primarily to each Flyway. We detailed implementation of AHM protocols for mid-continent and western mallards in the July 24, 2008, **Federal Register** (73 FR 43290), and for eastern waterfowl in the September 21, 2018, **Federal Register** (83 FR 47868).

We also stated in the October 9, 2020, proposed rule, that the coronavirus prevented the Service and their partners from performing the Waterfowl Breeding Population and Habitat Survey (WBPHS) and estimating waterfowl breeding abundances and habitat conditions in the spring of 2020. As a result, AHM protocols have been adjusted to inform decisions on duck hunting regulations based on model predictions of breeding abundances and habitat conditions. In most cases, system models specific to each AHM decision framework have been used to predict breeding abundances from the available information (e.g., 2019 observations). However, for some system state variables (i.e., pond numbers and mean latitude) we have used updated time series models to forecast 2020 values based on the most recent information. These technical adjustments are described in detail in the report entitled “Adaptive Harvest Management, 2021 Hunting Season” referenced above under Population Status and Harvest.

Atlantic Flyway

For the Atlantic Flyway, we set duck-hunting regulations based on the status and demographics of a suite of four duck species (eastern waterfowl) in eastern Canada and the Atlantic Flyway States: Green-winged teal, common goldeneye, ring-necked duck, and wood duck. For purposes of the assessment, eastern waterfowl stocks are those breeding in eastern Canada and Maine (Federal WBPHS fixed-wing surveys in strata 51–53, 56, and 62–70, and helicopter plot surveys in strata 51–52, 63–64, 66–68, and 70–72) and in Atlantic Flyway States from New Hampshire south to Virginia (Atlantic Flyway Breeding Waterfowl Survey, AFBWS). Abundance estimates for green-winged teal, ring-necked ducks, and goldeneyes are derived annually by integrating fixed-wing and helicopter survey data from eastern Canada and Maine (WBPHS strata 51–53, 56, and 62–72). Counts of green-winged teal, ring-necked ducks, and goldeneyes in the AFBWS are negligible and therefore excluded from population estimates for those species. Abundance estimates for wood ducks in the Atlantic Flyway (Maine south to Florida) are estimated by integrating data from the AFBWS and the North American Breeding Bird Survey. Counts of wood ducks from the WBPHS are negligible and therefore excluded from population estimates.

For the 2021–22 hunting season, we evaluated alternative harvest regulations for eastern waterfowl using: (1) A management objective of 98 percent of maximum long-term sustainable harvest for eastern waterfowl; (2) the 2021–22 regulatory alternatives; and (3) current stock-specific population models and associated weights. Based on the liberal regulatory alternative selected for the 2020–21 duck hunting season, the 2020 model predictions of 0.35 million green-winged teal, 0.94 million wood ducks, 0.70 million ring-necked ducks, and 0.58 million goldeneyes, the optimal regulation for the Atlantic Flyway is the liberal alternative. Therefore, we concur with the recommendation of the Atlantic Flyway Council regarding selection of the liberal regulatory alternative as described in the October 9, 2020, proposed rule for the 2021–22 season.

The mallard bag limit in the Atlantic Flyway is based on a separate assessment of the harvest potential of eastern mallards (see xi. Other, below, for further discussion on the mallard bag limit in the Atlantic Flyway).

Mississippi and Central Flyways

For the Mississippi and Central Flyways, we set duck-hunting regulations based on the status and demographics of mid-continent mallards and habitat conditions (pond numbers in Prairie Canada). For purposes of the assessment, mid-continent mallards are those breeding in central North America (Federal WBPHS strata 13–18, 20–50, and 75–77), and in Michigan, Minnesota, and Wisconsin (State surveys).

For the 2021–22 hunting season, we evaluated alternative harvest regulations for mid-continent mallards using: (1) A management objective of maximum long-term sustainable harvest; (2) the 2021–22 regulatory alternatives; and (3) current population models and associated weights. Based on a liberal regulatory alternative selected for the 2020–21 hunting season, the 2020 model predictions of 9.07 million mid-continent mallards and 3.40 million ponds in Prairie Canada, the optimal regulation for the Mississippi and Central Flyways is the liberal alternative. Therefore, we concur with the recommendations of the Mississippi and Central Flyway Councils regarding selection of the liberal regulatory alternative as described in the October 9, 2020, proposed rule for the 2021–22 season.

Pacific Flyway

For the Pacific Flyway, we set duck-hunting regulations based on the status and demographics of western mallards. For purposes of the assessment, western mallards consist of two substocks and are those breeding in Alaska and Yukon Territory (Federal WBPHS strata 1–12) and those breeding in the southern Pacific Flyway including California, Oregon, Washington, and British Columbia (State and Provincial surveys) combined.

For the 2021–22 hunting season, we evaluated alternative harvest regulations for western mallards using: (1) A management objective of maximum long-term sustainable harvest; (2) the 2021–22 regulatory alternatives; and (3) the current population model. Based on a liberal regulatory alternative selected for the 2020–21 hunting season, the 2020 model predictions of 0.94 million western mallards in Alaska and the Yukon Territory (0.41 million) and the southern Pacific Flyway (0.53 million), the optimal regulation for the Pacific Flyway is the liberal alternative. Therefore, we concur with the recommendation of the Pacific Flyway Council regarding selection of the liberal regulatory alternative as

described in the October 9, 2020, proposed rule for the 2021–22 season.

B. Regulatory Alternatives

Council Recommendations: At the April SRC meeting, the Atlantic, Mississippi, Central, and Pacific Flyway Councils recommended that AHM regulatory alternatives for duck hunting seasons in 2021–22 remain the same as those used in the previous year with one exception that we agreed to in 2020: Moving the opening framework date to 1 week earlier in the restrictive regulatory alternative for the Mississippi and Central Flyways beginning with the 2021–22 season based on their recommendations (85 FR 15870; March 19, 2020). The Central Flyway Council further recommended at the April SRC meeting that the bag limit for male mallards in the moderate and liberal regulatory alternatives for the Central Flyway be increased by one bird, so that the male mallard bag limit would be the same as the overall duck bag limit of six ducks. This recommendation is in opposition to Mississippi Flyway Council's recommendation that AHM regulatory alternatives for duck hunting seasons in 2021–22 remain the same as those used in the previous year with the exception noted above.

Service Response: Consistent with Flyway Council recommendations in April and the Flyway Council recommendations we earlier adopted in the August 21, 2020, final rule (85 FR 51854) for the 2021–22 duck season, the AHM regulatory alternatives proposed for the Atlantic, Mississippi, Central, and Pacific Flyways in the October 9, 2020, proposed rule (85 FR 64097) will be used for the 2021–22 hunting season (see accompanying table at the end of that document for specific information). The AHM regulatory alternatives consist only of the maximum season lengths, framework dates, and bag limits for total ducks and mallards. Restrictions for certain species within these frameworks that are not covered by existing harvest strategies will be addressed elsewhere in these proposed frameworks. For those species with specific harvest strategies (pintails, black ducks, and scaup), those strategies will again be used for the 2021–22 hunting season.

Last year, we considered proposals for mid-continent mallard duck regulations from the Central and Mississippi Flyways, which differed in the number of drake mallards in the daily bag limit. The recommendations from the two Councils in April are the same with regard to the bag limit for drake mallards as those we addressed in 2020 (85 FR 51854; August 21, 2020). Since the recommendations have not changed,

our decision also has not changed. Because mid-continent mallards are shared between the two Flyways, the two Flyways need to work together to create a suite of regulatory alternatives to which both can agree. Since such an agreement between the flyways has not yet been reached, the Service supports mallard bag limits for the 2021–22 season that are the same as those from the 2020–21 season where the two Councils were last in agreement (*i.e.*, no change).

C. Zones and Split Seasons

Zones and split seasons are “special regulations” designed to distribute hunting opportunities and harvests according to temporal, geographic, and demographic variability in waterfowl and other migratory game bird populations. For ducks, States have been allowed the option of dividing their allotted hunting days into two (or in some cases three) segments (splits) to take advantage of species-specific peaks of abundance or to satisfy hunters in different areas who want to hunt during the peak of waterfowl abundance in their area. We discussed and presented guidelines for duck zones and split seasons during 2021–25 seasons in the August 21, 2020, final rule (85 FR 51857). Also at that time, based on a Flyway Council recommendation, we extended the deadline for States to select their zone and split-season configurations and to define potential new zone boundaries for the 2021–25 seasons from May 1, 2020, to August 15, 2020.

Council Recommendations: The Atlantic and Mississippi Flyway Councils recommended that States be allowed an additional year to select their zone and split-season configurations and to define potential new zone boundaries for the 2021–25 seasons, and that those selections would remain in effect for 4 years (2022–25). At the April SRC meeting, the Pacific Flyway Council recommended that Alaska be allowed to move their two-segment season option from the Kodiak zone to the Southeast Zone and retain grandfathered status (5 zones and 1 zone with a split season).

Service Response: We agree with the Atlantic and Mississippi Flyway Councils' recommendation to allow States an additional opportunity to select their duck zone and split-season configurations and to define potential new zone boundaries for the 5-year period originally planned for the 2021–25 seasons. This opportunity will apply only to States that have not yet made a change in their zone and split-season configurations for the 2021–25 seasons,

and these selections would remain in effect for the 2022–25 seasons. The deadline for States to select their zone and split-season configuration and to define potential new zone boundaries for the 2022–25 seasons is May 1, 2021, but we encourage States to submit their selections and zone boundaries as soon as possible. The guidelines for duck zones and split seasons during 2022–25 seasons will remain the same as those established in the August 21, 2020, final rule (85 FR 51857). Any State that selects the new configuration allowed by the Service beginning with the 2021–22 season (*i.e.*, two zones with three segments in each zone) must conduct an evaluation of the impacts of zones and splits on hunter dynamics (*e.g.*, hunter numbers, satisfaction) and harvest.

We are agreeable to allow States an additional opportunity to select their zone and split-season configurations because some States were planning public input meetings during early spring 2020 to gather additional input prior to making their selection for the 2021–25 seasons. However, due to the coronavirus, those public meetings were cancelled, so States were unable to gather that input. However, in the future, we expect to adhere to our established guidelines that restrict the frequency of changes in State selection among these configurations to open seasons at the beginning of five-year intervals. This is necessary to increase our ability to detect the impacts of zones and splits on waterfowl demographics and harvest. Substantial concern remains about the unknown consequences of zones and split seasons on duck populations and harvest redistribution among States and flyways, potential reduced effectiveness of regulations (season length and bag limit) to reduce duck harvest if needed, and the administrative burden associated with changing regulations annually.

After this open period, the next regularly scheduled open season for changes to zone and split-season configurations will be in 2026, for use during the 2026–30 seasons. In order to allow sufficient time for States to solicit public input regarding their selections of zone and split season configurations in 2026, we will reaffirm the criteria during the 2025 season regulations process. At that time, we will notify States that changes to zone and split-season configurations should be provided to the Service by May 1, 2026.

We also agree with the Pacific Flyway Council's recommendation that Alaska be allowed to move their two-segment season option from the Kodiak zone to the Southeast Zone and retain

grandfathered status. The current guidelines indicate that only minor (less than a county in size) boundary changes will be allowed for any grandfathered arrangement. Although this is not a boundary change, the transfer of the split to a different, existing zone is simply a reconfiguration of the grandfathered zone and split structure, and the change is expected to have negligible impacts to duck population status and harvest. However, because the intent of zone and split regulations is not to affect harvest distribution, the State of Alaska will be required to provide the Service with an evaluation of impacts to duck harvest and hunter dynamics (e.g., hunter numbers, hunter success, hunter satisfaction, etc.) during the fixed five-year period it is implemented (e.g., 2021–25 period), and are encouraged to involve a human dimensions specialist in the assessment. This review should assist the Service in ascertaining whether major undesirable changes in harvest occurred or hunter participation improved as a result of the regulation change.

D. Special Seasons/Species Management

i. September Teal Seasons

Because a spring 2020 abundance estimate from the WBPBS for blue-winged teal was not available, we used time series models to predict their abundance. The predicted estimate was 5.83 million birds. Because this estimate is greater than 4.7 million birds, the teal season guidelines indicate that a 16-day special September teal season with a 6-teal daily bag limit is appropriate for States in the Atlantic, Mississippi and Central flyways. Further, the guidelines indicate that in Florida, Kentucky, and Tennessee, in lieu of a 16-day special September teal season, a 5-day special September teal–wood duck season with a daily bag limit of 6 birds in the aggregate, of which no more than 2 may be wood ducks, is appropriate. In addition, a 4-day special September teal season with a 6-teal daily bag limit, either immediately before or immediately after the 5-day teal–wood duck season, is appropriate.

Council Recommendations: The Mississippi Flyway Council recommended that Minnesota be allowed to conduct an experimental special September teal season for a 3-year period beginning in 2021 or 2022 following the framework for all other States in the Mississippi Flyway.

Service Response: As we discussed in the August 28, 2014, **Federal Register** (79 FR 51402), the Flyway Councils and Service completed a thorough

assessment of the harvest potential for teal (blue-winged, green-winged, and cinnamon), as well as an assessment of the impacts of current special September seasons on these three species. The assessment indicated that additional hunting opportunity could be provided for teal. Therefore, we supported recommendations from the Atlantic, Mississippi, and Central Flyway Councils to establish new hunting seasons (e.g., September teal seasons in northern States) and expanded hunting opportunities (e.g., season lengths, bag limits) in States with existing teal seasons. Further, we confirmed that we were willing to consider proposals to conduct experimental September teal seasons in northern (production) States if fully evaluated for impacts to teal and nontarget species. We also provided criteria for evaluation of these experimental seasons. Thus, we agree with the Mississippi Flyway Council's recommendation to allow an experimental special September teal season in Minnesota beginning in 2020 or 2021.

We earlier approved a 3-year experimental season in Minnesota beginning in 2014. However, Minnesota opted out of the experiment at that time. The criteria established in 2014 regarding the experimental season and transition to operational status will again apply (see 79 FR 51403, August 28, 2014). In addition, we clarify that criteria for operational status must be met by Minnesota's experimental season results alone, and not in combination with data from other States. We will work with Minnesota to develop an evaluation plan and associated memorandum of agreement (MOA) for this experiment detailing the required sample sizes, decision criteria for the experimental season to become operational, and roles and responsibilities. The plan will consist of a 3-year evaluation of hunter performance (via spy blind studies) with regard to attempt and kill rates on nontarget species during the experimental September teal season.

ii. September Teal–Wood Duck Seasons

Using band-recovery data for birds banded in summer and fall 2019 and harvested during the 2019–20 hunting season, we estimated kill rates for adult male wood ducks in the eastern United States to be 0.112 (range-wide) and 0.119 (northern birds only). These values are below those in which analyses suggest bag limit restrictions may be needed (range-wide = 0.166; northern birds = 0.143). These results, combined with the predicted blue-

winged teal estimate reported above indicate a 5-day September teal–wood duck season with a daily bag limit of 6 birds in the aggregate, of which no more than 2 may be wood ducks, is appropriate in Florida, Kentucky, and Tennessee for the 2021–22 season.

iii. Black Ducks

Council Recommendations: The Atlantic and Mississippi Flyway Councils recommended continued use of the AHM protocol for black ducks, and adoption of the moderate regulatory alternative for their respective flyways. The Flyway-specific regulations consist of a daily bag limit of two black ducks and a season length of 60 days.

Service Response: The Service, Atlantic and Mississippi Flyway Councils, and Canada adopted an international AHM protocol for black ducks in 2012 (77 FR 49868; August 17, 2012) whereby we set black duck hunting regulations for the Atlantic and Mississippi Flyways (and Canada) based on the status and demographics of these birds. The AHM protocol clarifies country-specific target harvest levels, and reduces conflicts over regulatory policies.

For the 2021–22 hunting season, we evaluated country-specific alternative harvest regulations using: (1) A management objective of 98 percent of maximum long-term sustainable harvest; (2) country-specific regulatory alternatives; and (3) current population models and associated weights. Based on the moderate regulatory alternative selected for the 2020–21 hunting season and the 2020 model predictions of 0.50 million breeding black ducks and 0.39 million breeding mallards (Federal WBPBS strata 51, 52, 63, 64, 66, 67, 68, 70, 71, and 72; core survey area), the optimal regulation for the Atlantic and Mississippi Flyways is the moderate alternative (and the liberal alternative in Canada). Therefore, we concur with the recommendations of the Atlantic and Mississippi Flyway Councils.

iv. Canvasbacks

Council Recommendations: The Atlantic, Mississippi, Central, and Pacific Flyway Councils recommended adoption of the liberal regulatory alternative for their respective flyways. The Flyway-specific regulations consist of a daily bag limit of two canvasbacks and a season length of 60 days in the Atlantic and Mississippi Flyways, 74 days in the Central Flyway, and 107 days in the Pacific Flyway.

Service Response: As we discussed in the March 23, 2016, **Federal Register** (81 FR 17302), the canvasback harvest strategy that we had relied on until 2015

was not viable under our new regulatory process because it required biological information that was not yet available at the time a decision on season structure needed to be made. We do not yet have a new harvest strategy to propose for use in guiding canvasback harvest management in the future. However, we have worked with technical staff of the four Flyway Councils to develop a decision framework (hereafter, decision support tool) that relies on the best biological information available to develop recommendations for annual canvasback harvest regulations. The decision support tool uses available information (1994–2014) on canvasback breeding population size in Alaska and north-central North America (Federal WBPBS traditional survey area, strata 1–18, 20–50, and 75–77), growth rate, survival, and harvest, and a population model to evaluate alternative harvest regulations based on a management objective of maximum long-term sustainable harvest. The decision support tool calls for a closed season when the population is below 460,000, a 1-bird daily bag limit when the population is between 460,000 and 480,000, and a 2-bird daily bag limit when the population is greater than 480,000. Because abundance estimates were not available from the WBPBS, we used two different methods to predict canvasback abundance during spring 2020. One used a population model initially developed in the 1990s, and the other used the time series of recent abundances from the WBPBS. Based on the resulting predictions of 550,799 and 671,280 canvasbacks, respectively, for the two approaches, we concur with the recommendations of the four Flyway Councils regarding selection of the liberal regulatory alternative for the 2021–22 season.

v. Pintails

Council Recommendations: The Atlantic, Mississippi, Central, and Pacific Flyway Councils recommended adoption of the liberal regulatory alternative with a 1-pintail daily bag limit for their respective flyways. The Flyway-specific regulations consist of a season length of 60 days in the Atlantic and Mississippi Flyways, 74 days in the Central Flyway, and 107 days in the Pacific Flyway.

Service Response: The Service and four Flyway Councils adopted an AHM protocol for pintail in 2010 (75 FR 44856; July 29, 2010) whereby we set pintail hunting regulations in all four Flyways based on the status and demographics of these birds.

For the 2021–22 hunting season, we evaluated alternative harvest regulations

for pintails using: (1) A management objective of maximum long-term sustainable harvest, including a closed-season constraint of 1.75 million birds; (2) the regulatory alternatives; and (3) current population models and associated weights. Based on a liberal regulatory alternative with a 1-bird daily bag limit for the 2020–21 season, and the 2020 model predictions of 2.45 million pintails with the center of the population predicted to occur at a mean latitude of 55.2 degrees (Federal WBPBS traditional survey area, strata 1–18, 20–50, and 75–77), the optimal regulation for all four Flyways is the liberal alternative with a 1-pintail daily bag limit. Therefore, we concur with the recommendations of the four Flyway Councils.

vi. Scaup

Council Recommendations: The Atlantic, Mississippi, Central, and Pacific Flyway Councils recommended adoption of the restrictive regulatory alternative for the 2021–22 season. The Flyway-specific regulations consist of a 60-day season with a 1-bird daily bag limit during 40 consecutive days and a 2-bird daily bag limit during 20 consecutive days in the Atlantic Flyway, a 60-day season with a 2-bird daily bag limit during 45 consecutive days and a 1-bird daily bag limit during 15 consecutive days in the Mississippi Flyway, a 1-bird daily bag limit for 74 days in the Central Flyway (which may have separate segments of 39 days and 35 days), and an 86-day season with a 2-bird daily bag limit in the Pacific Flyway. Also, at the April SRC meeting, the Mississippi Flyway Council recommended that the restrictive regulatory alternative for scaup in the Mississippi Flyway be a season of 60 days with a daily bag limit of 2 scaup.

Service Response: The Service and four Flyway Councils adopted an AHM protocol for scaup in 2008 (73 FR 43290, July 24, 2008; and 73 FR 51124, August 29, 2008) whereby we set scaup hunting regulations in all four Flyways based on the status and demographics of these birds.

For the 2021–22 hunting season, we evaluated alternative harvest regulations for scaup using: (1) A management objective of 95 percent of maximum sustainable harvest; (2) the regulatory alternatives; and (3) the current population model. Based on a moderate regulatory alternative for the 2020–21 season, and the 2020 model prediction of 3.53 million scaup (Federal WBPBS traditional survey area, strata 1–18, 20–50, and 75–77), the optimal regulation for all four Flyways is the restrictive alternative. Therefore, we concur with

the recommendations of the four Flyway Councils regarding selection of the restrictive alternative for the 2021–22 season.

We do not support the Mississippi Flyway Council's recommendation to revise the restrictive scaup regulatory alternative for the Mississippi Flyway to include a 60-day season with a 2-bird daily bag limit. The scaup harvest strategy prescribes allowable harvest limits for each flyway. In 2009, we accepted the Mississippi Flyway Council's recommendation for a hybrid season with 45 days at a 2-bird daily bag limit and 15 days at a 1-bird daily bag under the restrictive alternative to stay within allowable harvest limits. We do not support the current recommendation because it is outside the normal process for revising national harvest strategies, which involves working with the Service and Flyway Councils through the Harvest Management Working Group. Further, predicted harvest under this recommendation would exceed the harvest threshold established for the Mississippi Flyway restrictive alternative, as we previously indicated in 2008 when we received a similar recommendation. We note the Mississippi Flyway Council observation that realized harvests in the Mississippi Flyway have exceeded thresholds in other years, but do not agree that because that has occurred the alternative should be replaced with one that explicitly exceeds the threshold. We encourage the Mississippi Flyway Council to work with the other Flyway Councils through the Harvest Management Working Group to review and possibly revise the current scaup harvest strategy as appropriate, similar to the process that is underway for the pintail harvest strategy.

xi. Other

Council Recommendations: The Atlantic Flyway Council recommended a mallard daily bag limit of two birds, only one of which could be female, for the Atlantic Flyway. At the April SRC meeting, the Central Flyway Council presented an evaluation plan in support of their earlier recommendation that the Service allow South Dakota and Nebraska to evaluate a two-tier regulations system, wherein two different types of regulations would be available to hunters to harvest ducks (85 FR 51857, August 21, 2020).

Service Response: We agree with the Atlantic Flyway Council's recommendation for a mallard daily bag limit of two birds, of which only one may be female, for the Atlantic Flyway. The Atlantic Flyway Council's eastern

waterfowl AHM protocol (see above) did not specifically address bag limits for mallards. The number of breeding mallards in the northeastern United States (about two-thirds of the eastern mallard population in 1998) has decreased by about 38 percent since 1998, and the overall population has declined by about 1 percent per year during that time period. This situation has resulted in reduced harvest potential for that population. The Service conducted a Prescribed Take Level (PTL) analysis to estimate the allowable take (kill rate) for eastern mallards, and compared that with the expected kill rate under the most liberal season length (60 days) considered as part of the eastern waterfowl AHM regulatory alternatives.

Using contemporary data and assuming a management objective of maximum long-term sustainable harvest, the PTL analysis estimated an allowable kill rate of 0.194–0.198. The expected kill rate for eastern mallards under a 60-day season and a 2-mallard daily bag limit in the U.S. portion of the Atlantic Flyway was 0.193 (SE = 0.016), which is slightly below (but not significantly different from) the point estimate of allowable kill at maximum long-term sustainable harvest. This indicates that a 2-bird daily bag limit is sustainable at this time.

Regarding the Central Flyway Council's evaluation plan for a two-tier regulations system, we earlier noted our intent to approve the Central Flyway Council's recommendation for a limited two-tier regulations system in selected States to assess impacts to hunters and duck harvests during the 2021–22 season as published in the **Federal Register** (85 FR 51857, August 21, 2020). In October 2019, the Service tasked Division of Migratory Bird Management staff to work with the Flyway Councils to develop a team to address the components needed in an evaluation, and to have a draft evaluation plan that is supported by both the Division of Migratory Bird Management and the Flyway Councils ready for review prior to the spring 2020 SRC meeting. The Service concludes that completing National Environmental Policy Act compliance, developing shared objectives, identifying appropriate metrics for evaluation, potentially modifying monitoring efforts, and addressing law enforcement concerns are important elements to consider before implementing a limited two-tier regulations system for evaluation. The elements of the evaluation plan will be addressed in an MOA between the Service and the two States, which will outline the roles and

responsibilities of each partner in the agreement.

We appreciate the work that the Flyway Councils and the Division have completed to finalize an evaluation plan for the first year of a two-tier regulation study for duck harvests. The group has completed the work we requested last October, and therefore we support moving forward with the study beginning with the 2021–22 season. The study will allow different species-specific and overall bag limits for each of the two license types. We encourage the Central Flyway and the Division to review information collected during the first season and as the study progresses. The goal of the data collection is to determine whether improvement of collection methods is necessary or appropriate, and to assess possible enforcement issues faced by conservation officers from two-tier regulations.

4. Canada and Cackling Geese

B. Regular Seasons

Council Recommendations: The Mississippi Flyway Council recommended increasing the daily bag limit for Canada and cackling geese from 3 to 5 geese in the aggregate in the Mississippi Flyway. The Pacific Flyway Council recommended decreasing the daily bag limit for Canada and cackling geese from 6 to 4 geese in the aggregate in Oregon's Northwest Permit Zone.

Service Response: We agree with the Mississippi Flyway Council's recommendation to increase the daily bag limit for Canada and cackling geese from 3 to 5 geese in the aggregate for the entire 107-day season. The Council's technical assessment suggests that this change will maintain the harvest rate for subarctic Canada and cackling goose breeding populations at or below 11 percent, which serves as a decision threshold between liberal and standard frameworks in the Mississippi Flyway Council's management plan. If operational monitoring for subarctic Canada and cackling goose populations is not conducted during spring and summer 2021 due to the ongoing COVID–19 pandemic, we will discuss with the Mississippi Flyway Council the appropriate daily bag limit for the subsequent season due to the lack of monitoring information.

We also agree with the Pacific Flyway Council's recommendation to decrease the daily bag limit for Canada and cackling geese from 6 to 4 geese in the aggregate in Oregon's Northwest Permit Zone. The most recently available 3-year average predicted fall population estimate (2017–19) for *minima* cackling

geese is 235,137, which is near the lower end of the Council's population objective of 250,000 ± 10 percent (225,000–275,000). The decrease in bag limit is specifically intended to maintain objective abundance of *minima* cackling geese, and is consistent with the Council's harvest strategy for these birds. Also, the bag limit for Canada and cackling geese of 4 per day in the aggregate in Oregon's Northwest Permit Zone will simplify regulations by matching the 4-bird bag limit currently allowed for Canada and cackling geese in the aggregate in the basic season framework for Oregon and the Pacific Flyway.

6. Brant

Council Recommendations: The Atlantic Flyway Council recommended that the Service discontinue use of the harvest strategy for Atlantic brant adopted by the Service in 2015 for setting annual Atlantic brant hunting regulations. The Atlantic Flyway Council also recommended frameworks with a 50-day season and a 2-bird daily bag limit for Atlantic brant in the Atlantic Flyway for the 2021–22 season.

The Pacific Flyway Council recommended that the 2020–21 brant season frameworks be determined based on the harvest strategy in the Council's management plan for the Pacific population of brant pending results of the 2021 Winter Brant Survey (WBS). If results of the 2021 WBS are not available, results of the most recent WBS should be used.

Service Response: We agree with the Atlantic Flyway Council's recommendation to discontinue use of the harvest strategy for Atlantic brant adopted by the Service in 2015 for establishing Atlantic brant season frameworks. As we discussed in the March 28, 2016, **Federal Register** (81 FR 17302), we adopted in 2015 the Atlantic Flyway Council's harvest strategy to determine the Atlantic brant season frameworks. In developing the annual proposed frameworks for Atlantic brant, the Atlantic Flyway Council and the Service used the number of brant counted during the Midwinter Waterfowl Survey (MWS) in the Atlantic Flyway to determine annual allowable season length and daily bag limits. The MWS is conducted each January, which is after the date that proposed frameworks are formulated in the regulatory process. However, the data were typically available by the expected publication of final frameworks. When we acquired the survey data, we determined the appropriate allowable harvest for the Atlantic brant season according to the

harvest strategy, and published the results in the final frameworks rule. However, in 2020, the Atlantic Flyway Council developed and adopted a new harvest strategy for Atlantic brant that uses available data and a demographic model to predict population abundance for the subsequent year and determine the appropriate regulatory alternative. The Atlantic Flyway Council's newly adopted harvest strategy now fits within the regulatory schedule, and makes the Service's 2015 adopted harvest strategy obsolete and unnecessary. Based on the Atlantic Flyway Council's new harvest strategy, the 2021 predicted Atlantic brant population index is 126,000 birds and results in a prescribed season framework with a 50-day season and a 2-bird daily bag limit for Atlantic brant in the Atlantic Flyway for the 2021–22 season. Therefore, we also agree with the Atlantic Flyway Council's recommendation for a framework for Atlantic brant with a 50-day season and 2-bird daily bag limit for the 2021–22 season.

We also agree with the Pacific Flyway Council's recommendation that the 2021–22 Pacific brant season framework be determined by the harvest strategy in the Council's management plan for the Pacific population of brant pending results of the 2021 WBS. As we discussed in the August 21, 2020, **Federal Register** (85 FR 51854), the harvest strategy used to determine the Pacific brant season frameworks does not fit well within the current regulatory process. In developing the annual proposed frameworks for Pacific brant, the Pacific Flyway Council and the Service use the 3-year average number of brant counted during the WBS in the Pacific Flyway to determine annual allowable season length and daily bag limits. The WBS is conducted each January, which is after the date that proposed frameworks are formulated in the regulatory process. However, the data are typically available by the expected publication of final frameworks. When we acquire the survey data, we will determine the appropriate allowable harvest for the Pacific brant season according to the harvest strategy in the Pacific Flyway Council's management plan for the Pacific population of brant published in the August 21, 2020, **Federal Register** (85 FR 51854) and publish the results in the final frameworks rule.

7. Snow and Ross's (Light) Geese

Council Recommendations: The Pacific Flyway Council recommended two changes to the light goose season frameworks in the Pacific Flyway. Specifically, the Council recommended:

1. In Oregon, increasing the daily bag limit for light geese to 20 per day, statewide and during the entire season framework, and

2. In Washington, increasing the daily bag limit for light geese on or before the last Sunday in January to 10 per day and 20 per day thereafter.

Service Response: We agree with the Pacific Flyway Council's recommendations for increasing the daily bag limit for light geese in Oregon and Washington. Three populations of light geese occur in the Pacific Flyway and are above the Council's management plan population objectives based on the most recently available breeding population indices. The population estimate for the Western Arctic Population (WAP) of lesser snow geese was 419,800 in 2013, which is above the objective of 200,000 geese. Ross's geese were estimated at 233,300 in 2019, and are above the objective of 100,000 geese. The Wrangel Island Population (WIP) of lesser snow geese was 685,120 in 2020 and the recent 3-year (2018–2020) average was 477,640, which is above the objective of 120,000 geese based on the 3-year average. Also, light geese in the Pacific Flyway are indexed by fall and winter surveys in California, Oregon, Washington, and British Columbia. The most recent winter index was 1,599,641 light geese in 2019. The annual index has increased 6.04 percent annually since 2000 when the index averaged about 550,000, and indicates continued growth of light goose populations in the Pacific Flyway. Current evidence suggests most light geese in Oregon and Washington during fall and early winter are primarily WIP snow geese, but an influx of WAP snow and Ross's geese occurs during late winter as birds begin to move north toward breeding areas. The current 6-bird daily bag limit for light geese in Oregon (on or before the last Sunday in January, and in the Northwest Permit Zone season long) and Washington were intended to minimize harvest of WIP snow geese when they were below the population objective. The bag limit increase to 20 light geese per day in Oregon and Washington will simplify regulations by matching the 20-bird daily bag limit currently allowed for light geese in the basic season framework for the Pacific Flyway.

9. Sandhill Cranes

Council Recommendations: The Central and Pacific Flyway Councils recommended establishment of two new hunting areas for the Rocky Mountain Population (RMP) of sandhill cranes including Duchesne County in northeast Utah and Cascade and Teton Counties

in northcentral Montana, and that allowable harvest of RMP cranes be determined based on the formula described in the Pacific and Central Flyway Councils' Management Plan for RMP cranes.

Service Response: We agree with the Central and Pacific Flyway Councils' recommendations to establish the two new hunting areas for RMP cranes. The new hunting areas are consistent with the hunting area requirements in the Pacific and Central Flyway Councils' RMP crane management plan.

We also agree with the Central and Pacific Flyway Councils' recommendations to determine allowable harvest of RMP cranes using the formula in the Pacific and Central Flyway Councils' management plan for RMP cranes pending results of the fall 2020 abundance and recruitment surveys. As we discussed in the March 28, 2016, **Federal Register** (81 FR 17302), the harvest strategy used to calculate the allowable harvest of RMP cranes does not fit well within the current regulatory process. In developing the annual proposed frameworks for RMP cranes, the Flyway Councils and the Service use the fall abundance and recruitment surveys of RMP cranes to determine annual allowable harvest. Results of the fall abundance and recruitment surveys of RMP cranes are released between December 1 and January 31 each year, which is after the date proposed frameworks are developed. However, the data are typically available by the expected publication of final frameworks. When we acquire the survey data, we will determine the appropriate allowable harvest for the RMP crane season according to the harvest strategy in the Central and Pacific Flyway Councils' management plan for RMP cranes published in the March 28, 2016, **Federal Register** (81 FR 17302) and publish the results in the final frameworks rule.

14. American Woodcock

Council Recommendations: At the April SRC meeting, the Atlantic, Mississippi, and Central Flyway Councils recommended season framework dates for American woodcock in the Eastern Management Region and Central Management Region be changed to September 13–January 31 and use of the “moderate” season framework for the 2020–21 season.

Service Response: In 2011, we implemented a harvest strategy for American woodcock (76 FR 19876, April 8, 2011). The harvest strategy provides a transparent framework for making regulatory decisions for

American woodcock season length and bag limits while we work to improve monitoring and assessment protocols for this species. The American Woodcock Harvest Strategy is available on our website at <https://www.fws.gov/birds/surveys-and-data/webless-migratory-game-birds/american-woodcock.php>.

In the October 9, 2020, proposed rule (85 FR 64097), we proposed to change the opening framework date for American woodcock in the Eastern and Central Management Regions to a fixed date of September 13. Framework dates currently are October 1–January 31 and the Saturday nearest September 22–January 31 for the Eastern and Central Management Regions, respectively. Results from an assessment conducted by Service staff suggest that total season harvest would not increase in either management region as a result of these changes. Consistent with our earlier proposal, we agree with the Atlantic, Mississippi, and Central Flyway Councils' recommendations that the framework dates for the Eastern Management Region and Central Management Region be changed to September 13–January 31.

Utilizing the criteria developed for the strategy, the 3-year average for the Singing Ground Survey indices and associated confidence intervals fall within the “moderate package” for both the Eastern and Central Management Regions. As such, a “moderate season” for both management regions for the 2020–21 season is appropriate.

16. Doves

Council Recommendations: The Atlantic, Mississippi, Central, and Pacific Flyway Councils recommended adoption of the standard regulatory alternative as prescribed in the national mourning dove harvest strategy for their respective Mourning Dove Management Units. The standard regulatory alternative consists of a 90-day season and 15-bird daily bag limit for States within the Eastern and Central Management Units, and a 60-day season and 15-bird daily bag limit for States in the Western Management Unit.

The Central Flyway Council also recommended changes to the Special White-winged Dove Area in Texas. They proposed to add 2 days to the existing 4 days allowed in that area, and to codify in Federal regulations that hunting may occur only from noon to sunset during those days. This latter restriction has been in Texas' State regulations, so making this provision would involve only codifying the shooting hours in Federal regulations.

Service Response: Based on the harvest strategies and current

population status, we agree with the recommended selection of the standard region frameworks for doves in the Eastern, Central, and Western Management Units for the 2021–22 season. We also agree with the Central Flyway Council's recommendation to add 2 days to the existing 4 hunting days permitted in the Special White-winged Dove Area in Texas, and to codify in Federal regulations that shooting hours for those 6 days will be from noon to sunset. The additional days will allow more opportunity and flexibility to hunters by providing 3 consecutive days of dove hunting each of the first two weekends in September. As we have stated in the past (76 FR 54056, August 30, 2011), the Service remains concerned about the effect of early September hunting on late-nesting mourning doves. We note that abundances of mourning doves in the Central Management Unit have declined since 2008, and additional harvest associated with this change could exacerbate that trend. We encourage Texas and the Central Flyway Council to conduct appropriate monitoring of both mourning and white-winged doves that will inform adjustments to the dove harvest management strategy, if necessary, to maintain desired abundances of doves. Such efforts should include contemporary nesting ecology studies to determine the extent of nesting activity in September, various aspects of nesting ecology (e.g., nesting rate, clutch size, nest success), and exposure of nesting adults to harvest.

Public Comments

The Department of the Interior's policy is, whenever possible, to afford the public an opportunity to participate in the rulemaking process. Accordingly, we invite interested persons to submit written comments, suggestions, or recommendations regarding the proposed regulations. Before promulgating final migratory game bird hunting regulations, we will consider all comments we receive. These comments, and any additional information we receive, may lead to final regulations that differ from these proposals.

You may submit your comments and materials concerning this proposed rule by one of the methods listed in **ADDRESSES**. We will not accept comments sent by email or fax. We will not consider hand-delivered comments that we do not receive, or mailed comments that are not postmarked, by the date specified in **DATES**.

We may post all comments in their entirety—including your personal identifying information—on <http://www.regulations.gov>. 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. Comments and materials we receive, as well as supporting documentation we used in preparing this proposed rule, will be available for public inspection on <http://www.regulations.gov>, or by appointment, during normal business hours, at the U.S. Fish and Wildlife Service, Division of Migratory Bird Management, 5275 Leesburg Pike, Falls Church, Virginia. We will consider, but possibly may not respond in detail to, each comment. As in the past, we will summarize all comments we receive during the comment period and respond to them after the closing date in the preambles of any final rules.

Required Determinations

Based on our most current data, we are affirming our required determinations made in the October 9, 2020, proposed rule; for descriptions of our actions to ensure compliance with the following statutes and Executive Orders, see our October 9, 2020, proposed rule (85 FR 64097):

- National Environmental Policy Act (NEPA) Consideration;
- Endangered Species Act Consideration;
- Regulatory Flexibility Act;
- Small Business Regulatory Enforcement Fairness Act;
- Paperwork Reduction Act of 1995;
- Unfunded Mandates Reform Act;
- Executive Orders 12630, 12866, 12988, 13132, 13175, 13211, and 13563.

Authority

The rules that eventually will be promulgated for the 2021–22 hunting season are authorized under 16 U.S.C. 703–712 and 16 U.S.C. 742 a–j.

List of Subjects in 50 CFR Part 20

Exports, Hunting, Imports, Reporting and recordkeeping requirements, Transportation, Wildlife.

Proposed Regulations Frameworks for 2021–22 Hunting Seasons on Certain Migratory Game Birds

Pursuant to the Migratory Bird Treaty Act and delegated authorities, the Department of the Interior is proposing the following frameworks for outside dates, season lengths, shooting hours,

bag and possession limits, and areas within which States may select seasons for hunting migratory game birds between the dates of September 1, 2021, and March 10, 2022. These frameworks are summarized below.

General

Dates: All outside dates specified below are inclusive.

Season Lengths: All season lengths specified below are the maximum number of days allowed.

Season Segments: All season segments specified below are the maximum number of segments allowed.

Zones: Unless otherwise specified, States may select hunting seasons by zone. Zones for duck seasons (and associated youth and veterans-active military waterfowl hunting days, gallinule seasons, and snipe seasons) and dove seasons may be selected only in years we declare such changes can be made (*i.e.*, open seasons for zones and splits) and according to federally established guidelines for duck and dove zones and split seasons. Areas open to hunting must be described, delineated, and designated as such in each State's hunting regulations and published in the **Federal Register** as a Federal migratory bird hunting frameworks final rule.

Shooting and Hawking (taking by falconry) Hours: Unless otherwise specified, from one-half hour before sunrise to sunset daily.

Possession Limits: Unless otherwise specified, possession limits are three times the daily bag limit.

Permits: For some species of migratory birds, the Service authorizes the use of permits to regulate harvest or monitor their take by hunters, or both. In such cases, the Service determines the amount of harvest that may be taken during hunting seasons during its formal regulations-setting process, and the States then issue permits to hunters at levels predicted to result in the amount of take authorized by the Service. Thus, although issued by States, the permits would not be valid unless the Service approved such take in its regulations.

These federally authorized, State-issued permits are issued to individuals, and only the individual whose name and address appears on the permit at the time of issuance is authorized to take migratory birds at levels specified in the permit, in accordance with provisions of both Federal and State regulations governing the hunting season. The permit must be carried by the permittee when exercising its provisions and must be presented to any law enforcement officer upon request. The permit is not

transferrable or assignable to another individual, and may not be sold, bartered, traded, or otherwise provided to another person. If the permit is altered or defaced in any way, the permit becomes invalid.

Flyways and Management Units

We set migratory bird hunting frameworks for the conterminous U.S. States by Flyway or Management Unit/Region. Frameworks for Alaska, Hawaii, Puerto Rico, and the Virgin Islands are contained in separate sections near the end of the frameworks portion of this document. The States included in the Flyways and Management Units/Regions are described below.

Waterfowl Flyways

Atlantic Flyway: Includes Connecticut, Delaware, Florida, Georgia, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, North Carolina, Pennsylvania, Rhode Island, South Carolina, Vermont, Virginia, and West Virginia.

Mississippi Flyway: Includes Alabama, Arkansas, Illinois, Indiana, Iowa, Kentucky, Louisiana, Michigan, Minnesota, Mississippi, Missouri, Ohio, Tennessee, and Wisconsin.

Central Flyway: Includes Colorado (east of the Continental Divide), Kansas, Montana (Counties of Blaine, Carbon, Fergus, Judith Basin, Stillwater, Sweetgrass, Wheatland, and all counties east thereof), Nebraska, New Mexico (east of the Continental Divide except the Jicarilla Apache Indian Reservation), North Dakota, Oklahoma, South Dakota, Texas, and Wyoming (east of the Continental Divide).

Pacific Flyway: Includes Arizona, California, Idaho, Nevada, Oregon, Utah, Washington, and those portions of Colorado, Montana, New Mexico, and Wyoming not included in the Central Flyway.

Mallard Management Units

High Plains Management Unit: Roughly defined as that portion of the Central Flyway that lies west of the 100th meridian. See Area, Unit, and Zone Descriptions, *Ducks (Including Mergansers) and Coots*, below, for specific boundaries in each State.

Columbia Basin Management Unit: In Washington, all areas east of the Pacific Crest Trail and east of the Big White Salmon River in Klickitat County; and in Oregon, the counties of Gilliam, Morrow, and Umatilla.

Mourning Dove Management Units

Eastern Management Unit: All States east of the Mississippi River, and Louisiana.

Central Management Unit: Arkansas, Colorado, Iowa, Kansas, Minnesota, Missouri, Montana, Nebraska, New Mexico, North Dakota, Oklahoma, South Dakota, Texas, and Wyoming.

Western Management Unit: Arizona, California, Idaho, Nevada, Oregon, Utah, and Washington.

Woodcock Management Regions

Eastern Management Region: Connecticut, Delaware, Florida, Georgia, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, North Carolina, Pennsylvania, Rhode Island, South Carolina, Vermont, Virginia, and West Virginia.

Central Management Region: Alabama, Arkansas, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Michigan, Minnesota, Mississippi, Missouri, Nebraska, North Dakota, Ohio, Oklahoma, South Dakota, Tennessee, Texas, and Wisconsin.

Definitions

For the purpose of the hunting regulations listed below, the collective terms "dark" and "light" geese include the following species:

Dark geese: Canada geese, cackling geese, white-fronted geese, brant (except in Alaska, California, Oregon, Washington, and the Atlantic Flyway), and all other goose species except light geese.

Light geese: Snow (including blue) geese and Ross's geese.

Area, Zone, and Unit Descriptions: Geographic descriptions related to regulations are contained in a later portion of this document.

Migratory Game Bird Seasons in the Atlantic Flyway

In the Atlantic Flyway States of Connecticut, Delaware, Maine, Maryland, Massachusetts, New Jersey, North Carolina, and Pennsylvania, where Sunday hunting of migratory birds is prohibited statewide by State law or regulation, all Sundays are closed to the take of all migratory game birds.

Season Frameworks

Special Youth and Veterans-Active Military Personnel Waterfowl Hunting Days

Outside Dates: States may select 2 days per duck-hunting zone, designated as "Youth Waterfowl Hunting Days," and 2 days per duck-hunting zone, designated as "Veterans and Active Military Personnel Waterfowl Hunting Days," in addition to their regular duck seasons. The days may be held concurrently. The Youth Waterfowl Hunting Days must be held outside any regular duck season on weekends,

holidays, or other non-school days when youth hunters would have the maximum opportunity to participate. Both sets of days may be held up to 14 days before or after any regular duck-season frameworks or within any split of a regular duck season, or within any other open season on migratory birds.

Daily Bag Limits: The daily bag limits may include ducks, geese, swans, mergansers, coots, and gallinules. Bag limits would be the same as those allowed in the regular season except in States that implement a hybrid season for scaup (*i.e.*, different bag limits during different portions of the season), in which case the bag limit will be 2 scaup per day. Flyway species and area restrictions would remain in effect.

Participation Restrictions for Youth Waterfowl Hunting Days: States may use their established definition of age for youth hunters. However, youth hunters must be under the age of 18. In addition, an adult at least 18 years of age must accompany the youth hunter into the field. This adult may not duck hunt but may participate in other seasons that are open on the special youth day. Youth hunters 16 years of age and older must possess a Federal Migratory Bird Hunting and Conservation Stamp (also known as Federal Duck Stamp). Swans may only be taken by participants possessing applicable swan permits.

Participation Restrictions for Veterans and Active Military Personnel Waterfowl Hunting Days: Veterans (as defined in section 101 of title 38, United States Code) and members of the Armed Forces on active duty, including members of the National Guard and Reserves on active duty (other than for training), may participate. All hunters must possess a Federal Migratory Bird Hunting and Conservation Stamp (also known as Federal Duck Stamp). Swans may only be taken by participants possessing applicable swan permits.

Special September Teal Seasons

Outside Dates: Between September 1 and September 30, an open season on all species of teal may be selected by the following States in areas delineated by State regulations:

Atlantic Flyway: Delaware, Florida, Georgia, Maryland, North Carolina, South Carolina, and Virginia.

Mississippi Flyway: Alabama, Arkansas, Illinois, Indiana, Iowa, Kentucky, Louisiana, Michigan, Minnesota, Mississippi, Missouri, Ohio, Tennessee, and Wisconsin. The season in Minnesota is experimental.

Central Flyway: Colorado (part), Kansas, Nebraska, New Mexico (part), Oklahoma, and Texas.

Hunting Seasons and Daily Bag Limits: Not to exceed 16 consecutive days in the Atlantic, Mississippi, and Central Flyways. The daily bag limit is 6 teal.

Shooting Hours

One-half hour before sunrise to sunset, except in the States of Arkansas, Illinois, Indiana, Iowa, Michigan, Minnesota, Missouri, Ohio, South Carolina, and Wisconsin, where the hours are from sunrise to sunset.

Special September Duck Seasons

Florida, Kentucky, and Tennessee: In lieu of a special September teal season, a 5-consecutive-day teal/wood duck season may be selected in September. The daily bag limit may not exceed 6 teal and wood ducks in the aggregate, of which no more than 2 may be wood ducks. In addition, a 4-consecutive-day teal-only season may be selected in September either immediately before or immediately after the 5-consecutive-day teal/wood duck season. The daily bag limit is 6 teal.

Waterfowl

Atlantic Flyway

Ducks, Mergansers, and Coots

Outside Dates: Between the Saturday nearest September 24 (September 25) and January 31.

Hunting Seasons and Duck Limits: 60 days. The daily bag limit is 6 ducks, including no more than 2 mallards (no more than 1 of which can be female), 2 black ducks, 1 pintail, 1 mottled duck, 1 fulvous whistling duck, 3 wood ducks, 2 redheads, 2 canvasbacks, 4 scoters, 4 eiders, and 4 long-tailed ducks. The season for scaup may be split into 2 segments, with one segment consisting of 40 consecutive days with a 1-scaup daily bag limit, and the second segment consisting of 20 consecutive days with a 2-scaup daily bag limit.

Closures: The season on harlequin ducks is closed.

Merganser Limits: The daily bag limit of mergansers is 5, only 2 of which may be hooded mergansers. In States that include mergansers in the duck bag limit, the daily limit is the same as the duck bag limit, only 2 of which may be hooded mergansers.

Coot Limits: The daily bag limit is 15 coots.

Lake Champlain Zone, New York: The waterfowl seasons, limits, and shooting hours should be the same as those selected for the Lake Champlain Zone of Vermont.

Connecticut River Zone, Vermont: The waterfowl seasons, limits, and shooting hours should be the same as

those selected for the Inland Zone of New Hampshire.

Zoning and Split Seasons: Delaware, Florida, Georgia, Rhode Island, South Carolina, and West Virginia may split their seasons into 3 segments. Maine, Massachusetts, New Hampshire, New Jersey, and Vermont may select seasons in each of 3 zones; Pennsylvania may select seasons in each of 4 zones; and New York may select seasons in each of 5 zones; and all these States may split their season in each zone into 2 segments. Connecticut, Maryland, North Carolina, and Virginia may select seasons in each of 2 zones; and all these States may split their season in each zone into 3 segments. Connecticut, Maryland, North Carolina, and Virginia must conduct an evaluation of the impacts of zones and splits on hunter dynamics (*e.g.*, hunter numbers, satisfaction) and harvest during the 2021–25 seasons.

Scoters, Eiders, and Long-Tailed Ducks

Special Sea Duck Seasons

Connecticut, Delaware, Georgia, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, North Carolina, Rhode Island, South Carolina, and Virginia may select a Special Sea Duck Season in designated Special Sea Duck Areas. If a Special Sea Duck Season is selected, scoters, eiders, and long-tailed ducks may be taken in the designated Special Sea Duck Area(s) only during the Special Sea Duck Season dates; scoters, eiders, and long-tailed ducks may be taken outside of Special Sea Duck Area(s) during the regular duck season, in accordance with the frameworks for ducks, mergansers, and coots specified above.

Outside Dates: Between September 15 and January 31.

Special Sea Duck Seasons and Daily Bag Limits: 60 consecutive days, or 60 days that are concurrent with the regular duck season, with a daily bag limit of 5, of the listed sea duck species, including no more than 4 scoters, 4 eiders, and 4 long-tailed ducks. Within the special sea duck areas, during the regular duck season in the Atlantic Flyway, States may choose to allow the above sea duck limits in addition to the limits applying to other ducks during the regular season. In all other areas, sea ducks may be taken only during the regular open season for ducks and are part of the regular duck season daily bag (not to exceed 4 scoters, 4 eiders, and 4 long-tailed ducks) and possession limits.

Special Sea Duck Areas: In all coastal waters and all waters of rivers and streams seaward from the first upstream

bridge in Maine, New Hampshire, Massachusetts, Rhode Island, Connecticut, and New York; in New Jersey, all coastal waters seaward from the International Regulations for Preventing Collisions at Sea (COLREGS) Demarcation Lines shown on National Oceanic and Atmospheric Administration (NOAA) Nautical Charts and further described in 33 CFR 80.165, 80.501, 80.502, and 80.503; in any waters of the Atlantic Ocean and in any tidal waters of any bay that are separated by at least 1 mile of open water from any shore, island, and emergent vegetation in South Carolina and Georgia; and in any waters of the Atlantic Ocean and in any tidal waters of any bay that are separated by at least 800 yards of open water from any shore, island, and emergent vegetation in Delaware, Maryland, North Carolina, and Virginia; and provided that any such areas have been described, delineated, and designated as special sea duck hunting areas under the hunting regulations adopted by the respective States.

Canada and Cackling Geese

Special Early Canada and Cackling Goose Seasons

Season lengths and Outside Dates: A Canada and cackling goose season of not more than 15 days during September 1–15 may be selected for the Eastern Unit of Maryland. Seasons not to exceed 30 days during September 1–30 may be selected for Connecticut, Florida, Georgia, New Jersey, New York (Long Island Zone only), North Carolina, Rhode Island, and South Carolina. Seasons may not exceed 25 days during September 1–25 in the remainder of the Flyway. Areas open to the hunting of Canada and cackling geese must be described, delineated, and designated as such in each State's hunting regulations.

Daily Bag Limits: Not to exceed 15 Canada and cackling geese in the aggregate.

Shooting Hours: One-half hour before sunrise to sunset, except that during any special early Canada and cackling goose season, shooting hours may extend to one-half hour after sunset if all other waterfowl seasons are closed in the specific applicable area.

Regular Dark Goose Seasons

Season Lengths, Outside Dates, and Limits: Specific regulations are provided below by State. The daily bag limit for Canada, cackling, and white-fronted geese is in the aggregate. Unless subsequently provided, seasons may be split into 2 segments.

Connecticut

North Atlantic Population (NAP) Zone: Between October 1 and January 31, a 60-day season may be held with a 2-bird daily bag limit.

Atlantic Population (AP) Zone: A 30-day season may be held between October 10 and February 5, with a 2-bird daily bag limit.

South Zone: A special season may be held between January 15 and February 15, with a 5-bird daily bag limit.

Resident Population (RP) Zone: An 80-day season may be held between October 1 and February 15, with a 5-bird daily bag limit. The season may be split into 3 segments.

Delaware

A 30-day season may be held between November 15 and February 5, with a 1-bird daily bag limit.

Florida

An 80-day season may be held between October 1 and March 10, with a 5-bird daily bag limit. The season may be split into 3 segments.

Georgia

An 80-day season may be held between October 1 and March 10, with a 5-bird daily bag limit. The season may be split into 3 segments.

Maine

North and South NAP–H Zones: A 60-day season may be held between October 1 and January 31, with a 2-bird daily bag limit.

Coastal NAP–L Zone: A 70-day season may be held between October 1 and February 15, with a 3-bird daily bag limit.

Maryland

RP Zone: An 80-day season may be held between November 15 and March 10, with a 5-bird daily bag limit. The season may be split into 3 segments.

AP Zone: A 30-day season may be held between November 15 and February 5, with a 1-bird daily bag limit.

Massachusetts

NAP Zone: A 60-day season may be held between October 1 and January 31, with a 2-bird daily bag limit. Additionally, a special season may be held from January 15 to February 15, with a 5-bird daily bag limit.

AP Zone: A 30-day season may be held between October 10 and February 5, with a 2-bird daily bag limit.

New Hampshire

A 60-day season may be held statewide between October 1 and January 31, with a 2-bird daily bag limit.

New Jersey

AP Zone: A 30-day season may be held between the fourth Saturday in October (October 24) and February 5, with a 2-bird daily bag limit.

NAP Zone: A 60-day season may be held between October 1 and January 31, with a 2-bird daily bag limit.

Special Late Goose Season Area: A special season may be held in designated areas of north and south New Jersey from January 15 to February 15, with a 5-bird daily bag limit.

New York

NAP Zone: Between October 1 and January 31, a 60-day season may be held, with a 2-bird daily bag limit in the High Harvest areas; and between October 1 and February 15, a 70-day season may be held, with a 3-bird daily bag limit in the Low Harvest areas.

AP Zone: A 30-day season may be held between the fourth Saturday in October (October 23), except in the Lake Champlain Area where the opening date is October 10, through February 5, with a 2-bird daily bag limit.

Western Long Island RP Zone: A 107-day season may be held between the Saturday nearest September 24 (September 25) and the last day of February, with an 8-bird daily bag limit. The season may be split into 3 segments.

Rest of State RP Zone: An 80-day season may be held between the fourth Saturday in October (October 23) and the last day of February, with a 5-bird daily bag limit. The season may be split into 3 segments.

North Carolina

RP Zone: An 80-day season may be held between October 1 and March 10, with a 5-bird daily bag limit. The season may be split into 3 segments.

Northeast Zone: A 14-day season may be held between the Saturday prior to December 25 (December 18) and January 31, with a 1-bird daily bag limit.

Pennsylvania

Southern James Bay Population (SJB) Zone: A 78-day season may be held between the first Saturday in October (October 2) and February 15, with a 3-bird daily bag limit.

RP Zone: An 80-day season may be held between the fourth Saturday in October (October 23) and March 10, with a 5-bird daily bag limit. The season may be split into 3 segments.

AP Zone: A 30-day season may be held between the fourth Saturday in October (October 23) and February 5, with a 2-bird daily bag limit.

Rhode Island

A 60-day season may be held between October 1 and January 31, with a 2-bird daily bag limit. A special late season may be held in designated areas from January 15 to February 15, with a 5-bird daily bag limit.

South Carolina

In designated areas, an 80-day season may be held between October 1 and March 10, with a 5-bird daily bag limit. The season may be split into 3 segments.

Vermont

Lake Champlain Zone and Interior Zone: A 30-day season may be held between October 10 and February 5, with a 2-bird daily bag limit.

Connecticut River Zone: A 60-day season may be held between October 1 and January 31, with a 2-bird daily bag limit.

Virginia

SJBP Zone: A 40-day season may be held between November 15 and January 14, with a 3-bird daily bag limit. Additionally, a special late season may be held between January 15 and February 15, with a 5-bird daily bag limit.

AP Zone: A 30-day season may be held between November 15 and February 5, with a 1-bird daily bag limit.

RP Zone: An 80-day season may be held between November 15 and March 10, with a 5-bird daily bag limit. The season may be split into 3 segments.

West Virginia

An 80-day season may be held between October 1 and March 10, with a 5-bird daily bag limit. The season may be split into 3 segments.

Light Geese

Season Lengths, Outside Dates, and Limits: States may select a 107-day season between October 1 and March 10, with a 25-bird daily bag limit and no possession limit. Seasons may be split into 3 segments.

Brant

Season Lengths, Outside Dates, and Limits: States may select a 50-day season between the Saturday nearest September 24 (September 25) and January 31. Seasons may be split into 2 segments.

Mississippi Flyway

Ducks, Mergansers, and Coots

Outside Dates: Between the Saturday nearest September 24 (September 25) and January 31.

Hunting Seasons and Duck Limits: 60 days. The daily bag limit is 6 ducks, including no more than 4 mallards (no more than 2 of which may be females), 1 mottled duck, 2 black ducks, 1 pintail, 3 wood ducks, 2 canvasbacks, and 2 redheads. The season for scaup may be split into 2 segments, with one segment consisting of 45 consecutive days with a 2-scaup daily bag limit, and the second segment consisting of 15 consecutive days with a 1-scaup daily bag limit.

Merganser Limits: The daily bag limit is 5, only 2 of which may be hooded mergansers. In States that include mergansers in the duck bag limit, the daily limit is the same as the duck bag limit, only 2 of which may be hooded mergansers.

Coot Limits: The daily bag limit is 15 coots.

Zoning and Split Seasons: Alabama, Arkansas, and Mississippi may split their seasons into 3 segments. Kentucky and Tennessee may select seasons in each of 2 zones; and Indiana, Iowa, Michigan, Minnesota, Missouri, Ohio and Wisconsin may select seasons in each of 3 zones; and all these States may split their season in each zone into 2 segments. Illinois may select seasons in each of 4 zones. Louisiana may select seasons in each of 2 zones and may split their season in each zone into 3 segments. Louisiana must conduct an evaluation of the impacts of zones and splits on hunter dynamics (e.g., hunter numbers, satisfaction) and harvest during the 2021–25 seasons.

Geese

Season Lengths, Outside Dates, and Limits

Canada and Cackling Geese: States may select a 107-day season between September 1 and February 15 with a daily bag limit of 5 geese in the aggregate.

White-fronted Geese: States may select either a 74-day season with a daily bag limit of 3 geese, an 88-day season with a daily bag limit of 2 geese, or a 107-day season with a daily bag limit of 1 goose. Seasons must be between September 1 and February 15.

Brant: States may select either a 70-day season with a daily bag limit of 2 brant or a 107-day season with a daily bag limit of 1 brant. Seasons must be between September 1 and February 15. In lieu of a separate brant season, brant may be included in the season for Canada and cackling geese with a daily bag limit of 5 geese in the aggregate.

Dark Geese: In lieu of separate seasons for Canada and cackling geese, white-fronted geese, and brant,

Alabama, Iowa, Indiana, Michigan, Minnesota, Ohio, and Wisconsin may select a 107-day dark goose season between September 1 and February 15 with a daily bag limit of 5 geese in the aggregate.

Light Geese: States may select a 107-day season between September 1 and February 15 with a daily bag limit of 20 geese. There is no possession limit for light geese.

Split Seasons: Seasons for geese may be split into 4 segments.

Shooting Hours: One-half hour before sunrise to sunset, except that during September 1–15 shooting hours may extend to one-half hour after sunset for Canada and cackling geese if all other waterfowl and crane seasons are closed in the specific applicable area.

Central Flyway

Ducks, Mergansers, and Coots

Outside Dates: Between the Saturday nearest September 24 (September 25) and January 31.

Hunting Seasons

High Plains Mallard Management Unit (roughly defined as that portion of the Central Flyway that lies west of the 100th meridian): 97 days. The last 23 days must run consecutively and may start no earlier than the Saturday nearest December 10 (December 11).

Remainder of the Central Flyway: 74 days.

Duck Limits: The daily bag limit is 6 ducks, including no more than 5 mallards (no more than 2 of which may be females), 2 redheads, 3 wood ducks, 1 pintail, and 2 canvasbacks. The daily bag limit for scaup is 1, and the season for scaup may be split into 2 segments, with one segment consisting of 39 consecutive days and another segment consisting of 35 consecutive days. In Texas, the daily bag limit on mottled ducks is 1, except that no mottled ducks may be taken during the first 5 days of the season. In addition to the daily limits listed above, the States of Montana, North Dakota, South Dakota, and Wyoming, in lieu of selecting an experimental September teal season, may include an additional daily bag and possession limit of 2 and 6 blue-winged teal, respectively, during the first 16 days of the regular duck season in each respective duck hunting zone. These extra limits are in addition to the regular duck bag and possession limits.

Merganser Limits: The daily bag limit is 5 mergansers, only 2 of which may be hooded mergansers. In States that include mergansers in the duck daily bag limit, the daily limit may be the same as the duck bag limit, only two of which may be hooded mergansers.

Coot Limits: The daily bag limit is 15 coots.

Zoning and Split Seasons: Colorado, Kansas (Low Plains portion), Montana, Nebraska, New Mexico, Oklahoma (Low Plains portion), South Dakota (Low Plains portion), Texas (Low Plains portion), and Wyoming may select hunting seasons by zones.

North Dakota may split their season into 3 segments. Montana, New Mexico, Oklahoma, and Texas may select seasons in each of 2 zones; and Colorado, Kansas, South Dakota, and Wyoming may select seasons in each of 3 zones; and all these States may split their season in each zone into 2 segments. Nebraska may select seasons in each of 4 zones.

Geese

Special Early Canada and Cackling Goose Seasons

Season Lengths, Outside Dates, and Limits: In Kansas, Nebraska, Oklahoma, South Dakota, and Texas, Canada and cackling goose seasons of not more than 30 days during September 1–30 may be selected. In Colorado, New Mexico, Montana, and Wyoming, Canada and cackling goose seasons of not more than 15 days during September 1–15 may be selected. In North Dakota, Canada and cackling goose seasons of not more than 22 days during September 1–22 may be selected. The daily bag limit may not exceed 5 Canada and cackling geese in the aggregate, except in Kansas, Nebraska, and Oklahoma, where the daily bag limit may not exceed 8 Canada and cackling geese in the aggregate, and in North Dakota and South Dakota, where the daily bag limit may not exceed 15 Canada and cackling geese in the aggregate. Areas open to the hunting of Canada and cackling geese must be described, delineated, and designated as such in each State's hunting regulations.

Shooting Hours: One-half hour before sunrise to sunset, except that during September 1–15 shooting hours may extend to one-half hour after sunset if all other waterfowl and crane seasons are closed in the specific applicable area.

Regular Goose Seasons

Season Lengths, Outside Dates, and Limits

Outside Dates: For dark geese, seasons may be selected between the outside dates of the Saturday nearest September 24 (September 25) and the Sunday nearest February 15 (February 13). For light geese, outside dates for seasons may be selected between the Saturday nearest September 24 (September 25) and March 10. In the Rainwater Basin

Light Goose Area (East and West) of Nebraska, temporal and spatial restrictions that are consistent with the late-winter snow goose hunting strategy cooperatively developed by the Central Flyway Council and the Service are required.

Dark Geese: In Kansas, Nebraska, North Dakota, Oklahoma, South Dakota, and the Eastern Goose Zone of Texas, States may select a season for Canada and cackling geese (or any other dark goose species except white-fronted geese) not to exceed 107 days with a daily bag limit of 8 in the aggregate. For white-fronted geese, these States may select either a season of 74 days with a bag limit of 3, or an 88-day season with a bag limit of 2, or a season of 107 days with a bag limit of 1.

In Colorado, Montana, New Mexico, and Wyoming, States may select seasons not to exceed 107 days. The daily bag limit for dark geese is 5 in the aggregate.

In the Western Goose Zone of Texas, the season may not exceed 95 days. The daily bag limit for Canada and cackling geese (or any other dark goose species except white-fronted geese) is 5 in the aggregate. The daily bag limit for white-fronted geese is 2.

Light Geese: States may select a light goose season not to exceed 107 days. The daily bag limit for light geese is 50 with no possession limit.

Split Seasons: Seasons for geese may be split into 3 segments. Three-segment seasons for Canada geese require Central Flyway Council and U.S. Fish and Wildlife Service approval, and a 3-year evaluation by each participating State.

Pacific Flyway

Ducks, Mergansers, and Coots

Outside Dates: Between the Saturday nearest September 24 (September 25) and January 31.

Hunting Seasons and Duck and Merganser Limits: 107 days. The daily bag limit is 7 ducks and mergansers, including no more than 2 female mallards, 1 pintail, 2 canvasbacks, 2 scaup, and 2 redheads. For scaup, the season length is 86 days, which may be split according to applicable zones and split duck hunting configurations approved for each State.

Coot and Gallinule Limits: The daily bag limit of coots and gallinules is 25 in the aggregate.

Zoning and Split Seasons: Montana and New Mexico may split their seasons into 3 segments. Arizona, Colorado, Oregon, Utah, Washington, and Wyoming may select seasons in each of 2 zones; Nevada may select seasons in each of 3 zones; and California may select seasons in each of 5 zones; and all

these States may split their season in each zone into 2 segments. Idaho may select seasons in each of 4 zones.

Colorado River Zone, California: Seasons and limits should be the same as seasons and limits selected in the adjacent portion of Arizona (South Zone).

Geese

Special Early Canada and Cackling Goose Seasons

A Canada and cackling goose season of not more than 15 days during September 1–20 may be selected. The daily bag limit may not exceed 5 Canada and cackling geese in the aggregate, except in Pacific County, Washington, where the daily bag limit may not exceed 15 Canada and cackling geese in the aggregate. Areas open to hunting of Canada and cackling geese in each State must be described, delineated, and designated as such in each State's hunting regulations.

Regular Goose Seasons

Season Lengths, Outside Dates, and Limits

Canada Geese, Cackling Geese, and Brant: Except as subsequently provided, 107-day seasons may be selected with outside dates between the Saturday nearest September 24 (September 25) and January 31. In Arizona, Colorado, Idaho, Montana, Nevada, New Mexico, Utah, and Wyoming, the daily bag limit is 4 Canada and cackling geese and brant in the aggregate. In California, Oregon, and Washington, the daily bag limit is 4 Canada and cackling geese in the aggregate. For brant, in California, Oregon and Washington, the season lengths and daily bag limits will be based on the upcoming Winter Brant Survey results and the Pacific brant harvest strategy. Days must be consecutive. Washington and California may select hunting seasons for up to 2 zones. The daily bag limit is 2 brant and is in addition to other goose limits. In Oregon and California, the brant season must end no later than December 15.

White-fronted Geese: Except as subsequently provided, 107-day seasons may be selected with outside dates between the Saturday nearest September 24 (September 25) and March 10. The daily bag limit is 10.

Light Geese: Except as subsequently provided, 107-day seasons may be selected with outside dates between the Saturday nearest September 24 (September 25) and March 10. The daily bag limit is 20.

Split Seasons: Seasons may be split into 3 segments. Three-segment seasons for Canada geese and white-fronted

geese require Pacific Flyway Council and U.S. Fish and Wildlife Service approval and a 3-year evaluation by each participating State.

California

The daily bag limit for Canada and cackling geese is 10 in the aggregate.

Balance of State Zone: A Canada and cackling goose season may be selected with outside dates between the Saturday nearest September 24 (September 25) and March 10. In the Sacramento Valley Special Management Area, the season on white-fronted geese must end on or before December 28, and the daily bag limit is 3 white-fronted geese. In the North Coast Special Management Area, hunting days that occur after January 31 should be concurrent with Oregon's South Coast Zone.

Northeastern Zone: The white-fronted goose season may be split into 3 segments.

Oregon

Eastern Zone: For Lake County only, the daily white-fronted goose bag limit is 1.

Northwest Permit Zone: A Canada and cackling goose season may be selected with outside dates between the Saturday nearest September 24 (September 25) and March 10. Canada and cackling goose and white-fronted goose seasons may be split into 3 segments. In the Tillamook County Management Area, the hunting season is closed on geese.

South Coast Zone: A Canada and cackling goose season may be selected with outside dates between the Saturday nearest September 24 (September 25) and March 10. Canada and cackling goose and white-fronted goose seasons may be split into 3 segments. The daily bag limit of Canada and cackling geese is 6 in the aggregate. Hunting days that occur after January 31 should be concurrent with California's North Coast Special Management Area.

Utah

A Canada and cackling goose and brant season may be selected in the Wasatch Front Zone with outside dates between the Saturday nearest September 24 (September 25) and the first Sunday in February (February 6).

Washington

The daily bag limit for light geese is 10 on or before the last Sunday in January (January 30).

Areas 2 Inland and 2 Coastal (Southwest Permit Zone): A Canada and cackling goose season may be selected in each zone with outside dates between the Saturday nearest September 24 (September 25) and March 10. Canada

and cackling goose and white-fronted goose seasons may be split into 3 segments.

Area 4: Canada and cackling goose and white-fronted goose seasons may be split into 3 segments.

Permit Zones

In Oregon and Washington permit zones, the hunting season is closed on dusky Canada geese. A dusky Canada goose is any dark-breasted Canada goose (Munsell 10 YR color value 5 or less) with a bill length between 40 and 50 millimeters. Hunting of geese will only be by hunters possessing a State-issued permit authorizing them to do so. Shooting hours for geese may begin no earlier than sunrise. Regular Canada and cackling goose seasons in the permit zones of Oregon and Washington remain subject to the Memorandum of Understanding entered into with the Service regarding monitoring the impacts of take during the regular Canada and cackling goose season on the dusky Canada goose population.

Swans

Pacific Flyway

In portions of the Pacific Flyway (Idaho, Montana, Nevada, and Utah), an open season for taking a limited number of swans may be selected. These seasons are also subject to the following conditions:

Outside Dates: Between the Saturday nearest September 24 (September 25) and January 31.

Hunting Seasons: Seasons may not exceed 107 days, and may be split into 2 segments.

Permits: Swan hunting is by permit only. Permits will be issued by the State and will authorize each permittee to take no more than 1 swan per season with each permit. Only 1 permit may be issued per hunter in Montana and Utah, 2 permits may be issued per hunter in Nevada. The total number of permits issued may not exceed 50 in Idaho, 500 in Montana, 650 in Nevada, and 2,750 in Utah.

Quotas: The swan season in the respective State must end upon attainment of the following reported harvest of trumpeter swans: 20 in Utah and 10 in Nevada. There is no quota in Montana.

Monitoring: Each State must evaluate hunter participation, species-specific swan harvest, and hunter compliance in providing either species-determinant parts (at least the intact head) or bill measurements (bill length from tip to posterior edge of the nares opening, and presence or absence of yellow lore spots on the bill in front of the eyes) of

harvested swans for species identification. Each State should use appropriate measures to maximize hunter compliance with the State's program for swan harvest reporting. Each State must achieve a hunter compliance of at least 80 percent in providing species-determinant parts or bill measurements of harvested swans for species identification or subsequent permits will be reduced by 10 percent in the respective State. Each State must provide to the Service by June 30 following the swan season a report detailing hunter participation, species-specific swan harvest, and hunter compliance in reporting harvest. In Idaho and Montana, all hunters that harvest a swan must complete and submit a reporting card (bill card) with the bill measurement and color information from the harvested swan within 72 hours of harvest for species determination. In Utah and Nevada, all hunters that harvest a swan must have the swan or species-determinant parts examined by a State or Federal biologist within 72 hours of harvest for species determination.

Other Provisions: In Utah, the season is subject to the terms of the Memorandum of Agreement entered into with the Service in January 2019 regarding harvest monitoring, season closure procedures, and education requirements to minimize take of trumpeter swans during the swan season.

Atlantic and Central Flyways

In portions of the Atlantic Flyway (Delaware, North Carolina, and Virginia) and the Central Flyway (North Dakota, South Dakota [east of the Missouri River], and that portion of Montana in the Central Flyway), an open season for taking a limited number of swans may be selected. Permits will be issued by the States that authorize the take of no more than 1 swan per permit. A second permit may be issued to hunters from unused permits remaining after the first drawing.

Monitoring: Each State must evaluate hunter participation, species-specific swan harvest, and hunter compliance in providing measurements of harvested swans for species identification. Each State should use appropriate measures to maximize hunter compliance with the State's program for swan harvest reporting. Each State must achieve a hunter compliance of at least 80 percent in providing species-determinant measurements of harvested swans for species identification. Each State must provide to the Service by June 30 following the swan season a report detailing hunter participation, species-

specific swan harvest, and hunter compliance in reporting harvest.

In lieu of a general swan hunting season, States may select a season only for tundra swans. States selecting a season only for tundra swans must obtain harvest and hunter participation data.

These general swan seasons and tundra swan seasons are also subject to the following conditions:

In the Atlantic Flyway

- The season may be 90 days, between October 1 and January 31.
- In Delaware, no more than 67 permits may be issued. The season is experimental.
- In North Carolina, no more than 4,895 permits may be issued.
- In Virginia, no more than 638 permits may be issued.

In the Central Flyway

- The season may be 107 days, between the Saturday nearest October 1 (October 2) and January 31.
- In the Central Flyway portion of Montana, no more than 500 permits may be issued.
- In North Dakota, no more than 2,200 permits may be issued.
- In South Dakota, no more than 1,300 permits may be issued.

Sandhill Cranes

Regular Seasons in the Mississippi Flyway

Outside Dates: Between September 1 and February 28 in Minnesota, and between September 1 and January 31 in Alabama, Kentucky and Tennessee.

Hunting Seasons: A season not to exceed 37 consecutive days may be selected in the designated portion of northwestern Minnesota (Northwest Goose Zone), and a season not to exceed 60 consecutive days in Alabama, Kentucky, and Tennessee. The season in Alabama is experimental.

Daily Bag Limit: 1 sandhill crane in Minnesota, 2 sandhill cranes in Kentucky, and 3 sandhill cranes in Alabama and Tennessee. In Alabama, Kentucky, and Tennessee, the seasonal bag limit is 3 sandhill cranes.

Permits: Each person participating in the regular sandhill crane seasons must have a valid State sandhill crane hunting permit.

Other Provisions: The number of permits (where applicable), open areas, season dates, protection plans for other species, and other provisions of seasons must be consistent with the management plans and approved by the Mississippi Flyway Council.

Regular Seasons in the Central Flyway

Outside Dates: Between September 1 and February 28.

Hunting Seasons: Seasons not to exceed 37 consecutive days may be selected in a designated portion of Texas (Zone C). Seasons not to exceed 58 consecutive days may be selected in designated portions of the following States: Colorado, Kansas, Montana, North Dakota, South Dakota, and Wyoming. Seasons not to exceed 93 consecutive days may be selected in designated portions of the following States: New Mexico, Oklahoma, and Texas.

Daily Bag Limits: 3 sandhill cranes, except 2 sandhill cranes in designated portions of North Dakota (Area 2) and Texas (Zone C).

Permits: Each person participating in the regular sandhill crane season must have a valid Federal or State sandhill crane hunting permit.

Special Seasons in the Central and Pacific Flyways

Arizona, Colorado, Idaho, Montana, New Mexico, Utah, and Wyoming may select seasons for hunting sandhill cranes within the range of the Rocky Mountain Population (RMP) of sandhill cranes subject to the following conditions:

Outside Dates: Between September 1 and January 31.

Hunting Seasons: The season in any State or zone may not exceed 60 days, and may be split into 3 segments.

Bag limits: Not to exceed 3 daily and 9 per season.

Permits: Participants must have a valid permit, issued by the appropriate State, in their possession while hunting.

Other Provisions: Numbers of permits, open areas, season dates, protection plans for other species, and other provisions of seasons must be consistent with the management plan and approved by the Central and Pacific Flyway Councils, with the following exceptions:

A. In Utah, 100 percent of the harvest will be assigned to the RMP crane quota;

B. In Arizona, monitoring the racial composition of the harvest must be conducted at 3-year intervals unless 100 percent of the harvest will be assigned to the RMP crane quota;

C. In Idaho, 100 percent of the harvest will be assigned to the RMP crane quota; and

D. In the Estancia Valley hunt area of New Mexico, the level and racial composition of the harvest must be monitored; greater sandhill cranes in the harvest will be assigned to the RMP crane quota.

Gallinules

Outside Dates: Between September 1 and January 31 in the Atlantic, Mississippi, and Central Flyways. States in the Pacific Flyway may select their hunting seasons between the outside dates for the season on ducks, mergansers, and coots; therefore, Pacific Flyway frameworks for gallinules are included with the duck, merganser, and coot frameworks.

Hunting Seasons and Daily Bag

Limits: Seasons may not exceed 70 days in the Atlantic, Mississippi, and Central Flyways. Seasons may be split into 2 segments. The daily bag limit is 15 gallinules in the aggregate.

Zoning: Seasons may be selected by zones established for duck hunting.

Rails

Outside Dates: States included herein may select seasons between September 1 and January 31 on clapper, king, sora, and Virginia rails.

Hunting Seasons: Seasons may not exceed 70 days, and may be split into 2 segments.

Daily Bag Limits

Clapper and King Rails: In Connecticut, Delaware, Maryland, New Jersey, and Rhode Island, 10 rails in the aggregate. In Alabama, Florida, Georgia, Louisiana, Mississippi, North Carolina, South Carolina, Texas, and Virginia, 15 rails in the aggregate.

Sora and Virginia Rails: In the Atlantic, Mississippi, and Central Flyways and the Pacific Flyway portions of Colorado, Montana, New Mexico, and Wyoming, 25 rails in the aggregate. The season is closed in the remainder of the Pacific Flyway.

Snipe

Outside Dates: Between September 1 and February 28, except in Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Rhode Island, Vermont, and Virginia, where the season must end no later than January 31.

Hunting Seasons and Daily Bag Limits: Seasons may not exceed 107 days and may be split into 2 segments. The daily bag limit is 8 snipe.

Zoning: Seasons may be selected by zones established for duck hunting.

American Woodcock

Outside Dates: States in the Eastern and Central Management Regions may select hunting seasons between September 13 and January 31.

Hunting Seasons and Daily Bag Limits: Seasons may not exceed 45 days in the Eastern and Central Regions. The

daily bag limit is 3. Seasons may be split into 2 segments.

Zoning: New Jersey may select seasons in each of two zones. The season in each zone may not exceed 36 days.

Band-Tailed Pigeons

Pacific Coast States (California, Oregon, Washington, and Nevada)

Outside Dates: Between September 15 and January 1.

Hunting Seasons and Daily Bag Limits: Not more than 9 consecutive days, with a daily bag limit of 2.

Zoning: California may select hunting seasons not to exceed 9 consecutive days in each of 2 zones. The season in the North Zone must close by October 3.

Four-Corners States (Arizona, Colorado, New Mexico, and Utah)

Outside Dates: Between September 1 and November 30.

Hunting Seasons and Daily Bag Limits: Not more than 14 consecutive days, with a daily bag limit of 2.

Zoning: New Mexico may select hunting seasons not to exceed 14 consecutive days in each of 2 zones. The season in the South Zone may not open until October 1.

Doves

Outside Dates: Between September 1 and January 31 in the Eastern Management Unit, and between September 1 and January 15 in the Central and Western Management Units, except as subsequently provided, States may select hunting seasons and daily bag limits as follows:

Eastern Management Unit

Hunting Seasons and Daily Bag Limits: Not more than 90 days, with a daily bag limit of 15 mourning and white-winged doves in the aggregate.

Zoning and Split Seasons: Seasons may be split into 3 segments; Alabama, Louisiana, and Mississippi may select seasons in each of 2 zones, and may split their season in each zone into 3 segments.

Central Management Unit

For All States Except Texas

Hunting Seasons and Daily Bag Limits: Not more than 90 days, with a daily bag limit of 15 mourning and white-winged doves in the aggregate.

Zoning and Split Seasons: Seasons may be split into 3 segments; New Mexico may select seasons in each of 2 zones and may split their season in each zone into 3 segments.

Texas

Hunting Seasons and Daily Bag Limits: Not more than 90 days, with a daily bag limit of 15 mourning, white-winged, and white-tipped doves in the aggregate, of which no more than 2 may be white-tipped doves.

Zoning and Split Seasons: Texas may select hunting seasons for each of 3 zones subject to the following conditions:

A. The season may be split into 2 segments, except in that portion of Texas in which the special white-winged dove season is allowed, where a limited take of mourning and white-tipped doves may also occur during that special season (see Special White-winged Dove Area in Texas, below).

B. A season may be selected for the North and Central Zones between September 1 and January 25; and for the South Zone between September 14 and January 25.

Special White-Winged Dove Area in Texas

In addition, Texas may select a hunting season of not more than 6 days, consisting of two 3-consecutive-day periods, for the Special White-winged Dove Area between September 1 and September 19. The daily bag limit may not exceed 15 white-winged, mourning, and white-tipped doves in the aggregate, of which no more than 2 may be mourning doves and no more than 2 may be white-tipped doves. Shooting hours are from noon to sunset.

Western Management Unit

Hunting Seasons and Daily Bag Limits

Idaho, Nevada, Oregon, Utah, and Washington: Not more than 60 days. The daily bag limit is 15 mourning and white-winged doves in the aggregate.

Arizona and California: Not more than 60 days, which may be split between 2 segments, September 1–15 and November 1–January 15. In Arizona, during the first segment of the season, the daily bag limit is 15 mourning and white-winged doves in the aggregate, of which no more than 10 could be white-winged doves. During the remainder of the season, the daily bag limit is 15 mourning doves. In California, the daily bag limit is 15 mourning and white-winged doves in the aggregate, of which no more than 10 could be white-winged doves.

Zoning and Split Seasons: Arizona, California, Idaho, Nevada, Utah, and Washington may split their seasons into 2 segments. Oregon may select hunting seasons in each of 2 zones and may split their season in each zone into 2 segments.

Alaska

Outside Dates: Between September 1 and January 26.

Hunting Seasons: Except as subsequently provided, not more than 107 consecutive days for waterfowl (except brant), sandhill cranes, and snipe concurrent in each of 5 zones. The season length for brant will be determined based on the upcoming brant winter survey results and the Pacific brant harvest strategy. The season may be split into 2 segments in the Southeast Zone.

Closures: The hunting season is closed on spectacled eiders and Steller's eiders.

Daily Bag and Possession Limits

Ducks: Except as subsequently provided, the basic daily bag limit is 7 ducks. Basic daily bag limit in the North Zone is 10, and in the Gulf Coast Zone is 8. The basic daily bag limits may include no more than 2 canvasbacks daily and may not include sea ducks.

In addition to the basic daily bag limits, Alaska may select sea duck limits of 10 daily in the aggregate, including no more than 6 each of either harlequin or long-tailed ducks. Sea ducks include scoters, common and king eiders, harlequin ducks, long-tailed ducks, and common, hooded, and red-breasted mergansers.

Light Geese: The daily bag limit is 6.

Canada and Cackling Geese: The daily bag limit is 4 Canada and cackling geese in the aggregate with the following exceptions:

A. In Units 5 and 6, the taking of Canada and cackling geese is permitted from September 28 through December 16.

B. On Middleton Island in Unit 6, a special, permit-only Canada and cackling goose season may be offered. A mandatory goose identification class is required. Hunters must check in and check out. The daily bag and possession limits are 1 Canada or cackling goose. The season will close if incidental harvest includes 5 dusky Canada geese. A dusky Canada goose is any dark-breasted Canada goose (Munsell 10 YR color value 5 or less) with a bill length between 40 and 50 millimeters.

C. In Units 9, 10, 17, and 18, the daily bag limit is 6 Canada and cackling geese in the aggregate.

White-fronted Geese: The daily bag limit is 4 with the following exceptions:

A. In Units 9, 10, and 17, the daily bag limit is 6 white-fronted geese.

B. In Unit 18, the daily bag limit is 10 white-fronted geese.

Emperor Geese: Open seasons for emperor geese may be selected subject to the following conditions:

A. All seasons are by permit only.
 B. No more than 1 emperor goose may be harvested per hunter per season.
 C. Total harvest may not exceed 500 emperor geese.

D. In State Game Management Unit 8, the Kodiak Island Road Area is closed to hunting. The Kodiak Island Road Area consists of all lands and water (including exposed tidelands) east of a line extending from Crag Point in the north to the west end of Saltery Cove in the south and all lands and water south of a line extending from Termination Point along the north side of Cascade Lake extending to Anton Larsen Bay. Marine waters adjacent to the closed area are closed to harvest within 500 feet from the water's edge. The offshore islands are open to harvest, for example: Woody, Long, Gull, and Puffin islands.

Brant: The daily bag limit will be determined based on the upcoming brant winter survey results and the Pacific brant harvest strategy.

Snipe: The daily bag limit is 8.

Sandhill Cranes: The daily bag limit is 2 in the Southeast, Gulf Coast, Kodiak, and Aleutian Zones, and Unit 17 in the North Zone. In the remainder of the North Zone (outside Unit 17), the daily bag limit is 3.

Tundra Swans: Open seasons for tundra swans may be selected subject to the following conditions:

A. All seasons are by permit only.
 B. All season framework dates are September 1–October 31.

C. In Unit 17, no more than 200 permits may be issued during this operational season. No more than 3 tundra swans may be authorized per permit, with no more than 1 permit issued per hunter per season.

D. In Unit 18, no more than 500 permits may be issued during the operational season. No more than 3 tundra swans may be authorized per permit. No more than 1 permit may be issued per hunter per season.

E. In Unit 22, no more than 300 permits may be issued during the operational season. No more than 3 tundra swans may be authorized per permit. No more than 1 permit may be issued per hunter per season.

F. In Unit 23, no more than 300 permits may be issued during the operational season. No more than 3 tundra swans may be authorized per permit. No more than 1 permit may be issued per hunter per season.

Hawaii

Outside Dates: Between October 1 and January 31.

Hunting Seasons: Not more than 65 days (75 under the alternative) for mourning doves.

Bag Limits: Not to exceed 15 (12 under the alternative) mourning doves.

Note: Mourning doves may be taken in Hawaii in accordance with shooting hours and other regulations set by the State of Hawaii, and subject to the applicable provisions of 50 CFR part 20.

Puerto Rico

Doves and Pigeons

Outside Dates: Between September 1 and January 15.

Hunting Seasons: Not more than 60 days.

Daily Bag and Possession Limits: Not to exceed 30 Zenaida, mourning, and white-winged doves in the aggregate, of which not more than 10 may be Zenaida doves and 3 may be mourning doves. Not to exceed 5 scaly-naped pigeons.

Closed Seasons: The season is closed on the white-crowned pigeon and the plain pigeon, which are protected by the Commonwealth of Puerto Rico.

Closed Areas: There is no open season on doves or pigeons in the following areas: Municipality of Culebra, Desecheo Island, Mona Island, El Verde Closure Area, and Cidra Municipality and adjacent areas.

Ducks, Coots, Gallinules, and Snipe

Outside Dates: Between October 1 and January 31.

Hunting Seasons: Not more than 55 days may be selected for hunting ducks, common gallinules, and snipe. The season may be split into 2 segments.

Daily Bag Limits

Ducks: Not to exceed 6 ducks.

Common Gallinules: Not to exceed 6 common gallinules.

Snipe: Not to exceed 8 snipe.

Closed Seasons: The season is closed on ruddy duck, white-cheeked pintail, West Indian whistling duck, fulvous whistling duck, and masked duck, which are protected by the Commonwealth of Puerto Rico. The season is closed for purple gallinule, American coot, and Caribbean coot.

Closed Areas: There is no open season on ducks, common gallinules, and snipe in the Municipality of Culebra and on Desecheo Island.

Virgin Islands

Doves and Pigeons

Outside Dates: Between September 1 and January 15.

Hunting Seasons: Not more than 60 consecutive days.

Daily Bag and Possession Limits: Not to exceed 10 Zenaida doves.

Closed Seasons: No open season is prescribed for ground or quail doves or pigeons.

Closed Areas: There is no open season for migratory game birds on Ruth Cay (just south of St. Croix).

Local Names for Certain Birds:

Zenaida dove, also known as mountain dove; bridled quail-dove, also known as Barbary dove or partridge; common ground-dove, also known as stone dove, tobacco dove, rola, or tortolita; scaly-naped pigeon, also known as red-necked or scaled pigeon.

Ducks

Outside Dates: Between December 1 and January 31.

Hunting Seasons: Not more than 55 consecutive days.

Daily Bag Limits: Not to exceed 6 ducks.

Closed Seasons: The season is closed on the ruddy duck, white-cheeked pintail, West Indian whistling duck, fulvous whistling duck, and masked duck.

Special Falconry Regulations

In accordance with 50 CFR 21.29, falconry is a permitted means of taking migratory game birds in any State except for Hawaii. States may select an extended season for taking migratory game birds in accordance with the following:

Extended Seasons: For all hunting methods combined, the combined length of the extended season, regular season, and any special or experimental seasons must not exceed 107 days for any species or group of species in a geographical area. Each extended season may be split into 3 segments.

Outside Dates: Seasons must fall between September 1 and March 10.

Daily Bag Limits: Falconry daily bag limits for all permitted migratory game birds must not exceed 3 birds in the aggregate, during extended falconry seasons, any special or experimental seasons, and regular hunting seasons in all States, including those that do not select an extended falconry season.

Regular Seasons: General hunting regulations, including seasons and hunting hours, apply to falconry. Regular season bag limits do not apply to falconry. The falconry bag limit is not in addition to shooting limits.

Area, Unit, and Zone Descriptions

Ducks (Including Mergansers) and Coots

Atlantic Flyway

Connecticut

North Zone: That portion of the State north of I-95.

South Zone: Remainder of the State.

Maine

North Zone: That portion north of the line extending east along Maine State Highway 110 from the New Hampshire-Maine State line to the intersection of Maine State Highway 11 in Newfield; then north and east along Route 11 to the intersection of U.S. Route 202 in Auburn; then north and east on Route 202 to the intersection of I-95 in Augusta; then north and east along I-95 to Route 15 in Bangor; then east along Route 15 to Route 9; then east along Route 9 to Stony Brook in Baileyville; then east along Stony Brook to the U.S. border.

Coastal Zone: That portion south of a line extending east from the Maine-New Brunswick border in Calais at the Route 1 Bridge; then south along Route 1 to the Maine-New Hampshire border in Kittery.

South Zone: Remainder of the State.

Maryland

Western Zone: Allegany, Carroll, Garrett, Frederick and Washington Counties; and those portions of Baltimore, Howard, Prince George's, and Montgomery Counties west of a line beginning at I-83 at the Pennsylvania state line, following I-83 south to the intersection of I-83 and I-695 (Outer Loop), south following I-695 (Outer Loop) to its intersection with I-95, south following I-95 to its intersection with I-495 (Outer Loop), and following I-495 (Outer Loop) to the Virginia shore of the Potomac River.

Eastern Zone: That portion of the State not included in the Western Zone.

Special Teal Season Area: Calvert, Caroline, Cecil, Dorchester, Harford, Kent, Queen Anne's, St. Mary's, Somerset, Talbot, Wicomico, and Worcester Counties; that part of Anne Arundel County east of Interstate 895, Interstate 97, and Route 3; that part of Prince George's County east of Route 3 and Route 301; and that part of Charles County east of Route 301 to the Virginia State Line.

Massachusetts

Western Zone: That portion of the State west of a line extending south from the Vermont State line on I-91 to MA 9, west on MA 9 to MA 10, south on MA 10 to U.S. 202, south on U.S. 202 to the Connecticut State line.

Central Zone: That portion of the State east of the Berkshire Zone and west of a line extending south from the New Hampshire State line on I-95 to U.S. 1, south on U.S. 1 to I-93, south on I-93 to MA 3, south on MA 3 to U.S. 6, west on U.S. 6 to MA 28, west on MA 28 to I-195, west to the Rhode Island

State line; except the waters, and the lands 150 yards inland from the high-water mark, of the Assonet River upstream to the MA 24 bridge, and the Taunton River upstream to the Center Street-Elm Street bridge shall be in the Coastal Zone.

Coastal Zone: That portion of Massachusetts east and south of the Central Zone.

New Hampshire

Northern Zone: That portion of the State east and north of the Inland Zone beginning at the Jct. of Route 10 and Route 25-A in Orford, east on Route 25-A to Route 25 in Wentworth, southeast on Route 25 to Exit 26 of Route I-93 in Plymouth, south on Route I-93 to Route 3 at Exit 24 of Route I-93 in Ashland, northeast on Route 3 to Route 113 in Holderness, north on Route 113 to Route 113-A in Sandwich, north on Route 113-A to Route 113 in Tamworth, east on Route 113 to Route 16 in Chocorua, north on Route 16 to Route 302 in Conway, east on Route 302 to the Maine-New Hampshire border.

Inland Zone: That portion of the State south and west of the Northern Zone, west of the Coastal Zone, and includes the area of Vermont and New Hampshire as described for hunting reciprocity. A person holding a New Hampshire hunting license that allows the taking of migratory waterfowl or a person holding a Vermont resident hunting license that allows the taking of migratory waterfowl may take migratory waterfowl and coots from the following designated area of the Inland Zone: The State of Vermont east of Route I-91 at the Massachusetts border, north on Route I-91 to Route 2, north on Route 2 to Route 102, north on Route 102 to Route 253, and north on Route 253 to the border with Canada and the area of New Hampshire west of Route 63 at the Massachusetts border, north on Route 63 to Route 12, north on Route 12 to Route 12-A, north on Route 12-A to Route 10, north on Route 10 to Route 135, north on Route 135 to Route 3, north on Route 3 to the intersection with the Connecticut River.

Coastal Zone: That portion of the State east of a line beginning at the Maine-New Hampshire border in Rollinsford, then extending to Route 4 west to the city of Dover, south to the intersection of Route 108, south along Route 108 through Madbury, Durham, and Newmarket to the junction of Route 85 in Newfields, south to Route 101 in Exeter, east to Interstate 95 (New Hampshire Turnpike) in Hampton, and south to the Massachusetts border.

New Jersey

Coastal Zone: That portion of the State seaward of a line beginning at the New York State line in Raritan Bay and extending west along the New York State line to NJ 440 at Perth Amboy; west on NJ 440 to the Garden State Parkway; south on the Garden State Parkway to NJ 109; south on NJ 109 to Cape May County Route 633 (Lafayette Street); south on Lafayette Street to Jackson Street; south on Jackson Street to the shoreline at Cape May; west along the shoreline of Cape May beach to COLREGS Demarcation Line 80.503 at Cape May Point; south along COLREGS Demarcation Line 80.503 to the Delaware State line in Delaware Bay.

North Zone: That portion of the State west of the Coastal Zone and north of a line extending west from the Garden State Parkway on NJ 70 to the New Jersey Turnpike, north on the turnpike to U.S. 206, north on U.S. 206 to U.S. 1 at Trenton, west on U.S. 1 to the Pennsylvania State line in the Delaware River.

South Zone: That portion of the State not within the North Zone or the Coastal Zone.

New York

Lake Champlain Zone: That area east and north of a continuous line extending along U.S. 11 from the New York-Canada International boundary south to NY 9B, south along NY 9B to U.S. 9, south along U.S. 9 to NY 22 south of Keesville; south along NY 22 to the west shore of South Bay, along and around the shoreline of South Bay to NY 22 on the east shore of South Bay; southeast along NY 22 to U.S. 4, northeast along U.S. 4 to the Vermont State line.

Long Island Zone: That area consisting of Nassau County, Suffolk County, that area of Westchester County southeast of I-95, and their tidal waters.

Western Zone: That area west of a line extending from Lake Ontario east along the north shore of the Salmon River to I-81, and south along I-81 to the Pennsylvania State line.

Northeastern Zone: That area north of a continuous line extending from Lake Ontario east along the north shore of the Salmon River to I-81, south along I-81 to NY 31, east along NY 31 to NY 13, north along NY 13 to NY 49, east along NY 49 to NY 365, east along NY 365 to NY 28, east along NY 28 to NY 29, east along NY 29 to NY 22, north along NY 22 to Washington County Route 153, east along CR 153 to the New York-Vermont boundary, exclusive of the Lake Champlain Zone.

Southeastern Zone: The remaining portion of New York.

North Carolina

Coastal Zone: All counties and portions of counties east of I-95.

Inland Zone: All counties and portions of counties west of I-95.

Pennsylvania

Lake Erie Zone: The Lake Erie waters of Pennsylvania and a shoreline margin along Lake Erie from New York on the east to Ohio on the west extending 150 yards inland, but including all of Presque Isle Peninsula.

Northwest Zone: The area bounded on the north by the Lake Erie Zone and including all of Erie and Crawford Counties and those portions of Mercer and Venango Counties north of I-80.

North Zone: That portion of the State east of the Northwest Zone and north of a line extending east on I-80 to U.S. 220, Route 220 to I-180, I-180 to I-80, and I-80 to the Delaware River.

South Zone: The remaining portion of Pennsylvania.

Vermont

Lake Champlain Zone: The U.S. portion of Lake Champlain and that area north and west of the line extending from the New York border along U.S. 4 to VT 22A at Fair Haven; VT 22A to U.S. 7 at Vergennes; U.S. 7 to VT 78 at Swanton; VT 78 to VT 36; VT 36 to Maquam Bay on Lake Champlain; along and around the shoreline of Maquam Bay and Hog Island to VT 78 at the West Swanton Bridge; VT 78 to VT 2 in Alburg; VT 2 to the Richelieu River in Alburg; along the east shore of the Richelieu River to the Canadian border.

Interior Zone: That portion of Vermont east of the Lake Champlain Zone and west of a line extending from the Massachusetts border at Interstate 91; north along Interstate 91 to U.S. 2; east along U.S. 2 to VT 102; north along VT 102 to VT 253; north along VT 253 to the Canadian border.

Connecticut River Zone: The remaining portion of Vermont east of the Interior Zone.

Virginia

Western Zone: All counties and portions of counties west of I-95.

Eastern Zone: All counties and portions of counties east of I-95.

Mississippi Flyway

Illinois

North Zone: That portion of the State north of a line extending west from the Indiana border along Peotone-Beecher Road to Illinois Route 50, south along Illinois Route 50 to Wilmington-Peotone Road, west along Wilmington-Peotone Road to Illinois Route 53, north along

Illinois Route 53 to New River Road, northwest along New River Road to Interstate Highway 55, south along I-55 to Pine Bluff-Lorenzo Road, west along Pine Bluff-Lorenzo Road to Illinois Route 47, north along Illinois Route 47 to I-80, west along I-80 to I-39, south along I-39 to Illinois Route 18, west along Illinois Route 18 to Illinois Route 29, south along Illinois Route 29 to Illinois Route 17, west along Illinois Route 17 to the Mississippi River, and due south across the Mississippi River to the Iowa border.

Central Zone: That portion of the State south of the North Duck Zone line to a line extending west from the Indiana border along I-70 to Illinois Route 4, south along Illinois Route 4 to Illinois Route 161, west along Illinois Route 161 to Illinois Route 158, south and west along Illinois Route 158 to Illinois Route 159, south along Illinois Route 159 to Illinois Route 3, south along Illinois Route 3 to St. Leo's Road, south along St. Leo's Road to Modoc Road, west along Modoc Road to Modoc Ferry Road, southwest along Modoc Ferry Road to Levee Road, southeast along Levee Road to County Route 12 (Modoc Ferry entrance Road), south along County Route 12 to the Modoc Ferry route and southwest on the Modoc Ferry route across the Mississippi River to the Missouri border.

South Zone: That portion of the State south and east of a line extending west from the Indiana border along Interstate 70, south along U.S. Highway 45, to Illinois Route 13, west along Illinois Route 13 to Greenbriar Road, north on Greenbriar Road to Sycamore Road, west on Sycamore Road to N Reed Station Road, south on N Reed Station Road to Illinois Route 13, west along Illinois Route 13 to Illinois Route 127, south along Illinois Route 127 to State Forest Road (1025 N), west along State Forest Road to Illinois Route 3, north along Illinois Route 3 to the south bank of the Big Muddy River, west along the south bank of the Big Muddy River to the Mississippi River, west across the Mississippi River to the Missouri border.

South Central Zone: The remainder of the State between the south border of the Central Zone and the North border of the South Zone.

Indiana

North Zone: That part of Indiana north of a line extending east from the Illinois border along State Road 18 to U.S. 31; north along U.S. 31 to U.S. 24; east along U.S. 24 to Huntington; southeast along U.S. 224; south along State Road 5; and east along State Road 124 to the Ohio border.

Central Zone: That part of Indiana south of the North Zone boundary and north of the South Zone boundary.

South Zone: That part of Indiana south of a line extending east from the Illinois border along I-70; east along National Ave.; east along U.S. 150; south along U.S. 41; east along State Road 58; south along State Road 37 to Bedford; and east along U.S. 50 to the Ohio border.

Iowa

North Zone: That portion of Iowa north of a line beginning on the South Dakota-Iowa border at Interstate 29, southeast along Interstate 29 to State Highway 20 to the Iowa-Illinois border. The south duck hunting zone is that part of Iowa west of Interstate 29 and south of State Highway 92 east to the Iowa-Illinois border. The central duck hunting zone is the remainder of the state.

Central Zone: The remainder of Iowa not included in the North and South zones.

South Zone: The south duck hunting zone is that part of Iowa west of Interstate 29 and south of State Highway 92 east to the Iowa-Illinois border.

Kentucky

West Zone: All counties west of and including Butler, Daviess, Ohio, Simpson, and Warren Counties.

East Zone: The remainder of Kentucky.

Louisiana

East Zone: That area of the State beginning at the Arkansas border, then south on U.S. Hwy 79 to State Hwy 9, then south on State Hwy 9 to State Hwy 147, then south on State Hwy 147 to U.S. Hwy 167, then south and east on U.S. Hwy 167 to U.S. Hwy 90, then south on U.S. Hwy 90 to the Mississippi State line.

West Zone: Remainder of the State.

Michigan

North Zone: The Upper Peninsula.

Middle Zone: That portion of the Lower Peninsula north of a line beginning at the Michigan-Wisconsin boundary line in Lake Michigan, directly due west of the mouth of Stoney Creek in section 31, T14N R18W, Oceana County, then proceed easterly and southerly along the centerline of Stoney Creek to its intersection with Scenic Drive, southerly on Scenic Drive to Stoney Lake Road in section 5, T13N R18W, Oceana County, easterly on Stoney Lake Road then both west and east Garfield Roads (name change only; not an intersection) then crossing highway U.S.-31 to State Highway M-20

(north of the town of New Era; also locally named Hayes Road) in section 33, T14N R17W, Oceana County, easterly on M-20 through Oceana, Newaygo, Mecosta, Isabella, and Midland Counties to highway U.S.-10 business route in the city of Midland, easterly on U.S.-10 BR to highway U.S.-10 at the Bay County line, easterly on U.S.-10 then crossing U.S.-75 to State Highway M-25 (west of the town of Bay City), easterly along M-25 into Tuscola County then northeasterly and easterly on M-25 through Tuscola County into Huron County, turning southeasterly on M-25 (near the town of Huron City; also locally named North Shore Road) to the centerline of Willow Creek in section 4, T18N R14E, Huron County, then northerly along the centerline of Willow Creek to the mouth of Willow Creek into Lake Huron, then directly due east along a line from the mouth of Willow Creek heading east into Lake Huron to a point due east and on the Michigan/U.S.-Canadian border.

South Zone: The remainder of Michigan.

Minnesota

North Duck Zone: That portion of the State north of a line extending east from the North Dakota State line along State Highway 210 to State Highway 23 and east to State Highway 39 and east to the Wisconsin State line at the Oliver Bridge.

South Duck Zone: The portion of the State south of a line extending east from the South Dakota State line along U.S. Highway 212 to Interstate 494 and east to Interstate 94 and east to the Wisconsin State line.

Central Duck Zone: The remainder of the State.

Missouri

North Zone: That portion of Missouri north of a line running west from the Illinois border at I-70; west on I-70 to Hwy 65; north on Hwy 65 to Hwy 41, north on Hwy 41 to Hwy 24; west on Hwy 24 to MO Hwy 10, west on Hwy 10 to Hwy 69, north on Hwy 69 to MO Hwy 116, west on MO Hwy 116 to Hwy 59, south on Hwy 59 to the Kansas border.

Middle Zone: The remainder of Missouri not included in other zones.

South Zone: That portion of Missouri south of a line running west from the Illinois border on MO Hwy 74 to MO Hwy 25; south on MO Hwy 25. to U.S. Hwy 62; west on U.S. Hwy 62 to MO Hwy 53; north on MO Hwy 53 to MO Hwy 51; north on MO Hwy 51 to U.S. Hwy 60; west on U.S. Hwy 60 to MO Hwy 21; north on MO Hwy 21 to MO Hwy 72; west on MO Hwy 72 to MO

Hwy 32; west on MO Hwy 32 to U.S. Hwy 65; north on U.S. Hwy 65 to U.S. Hwy 54; west on U.S. Hwy 54 to the Kansas border.

Ohio

Lake Erie Marsh Zone: Includes all land and water within the boundaries of the area bordered by a line beginning at the intersection of Interstate 75 at the Ohio-Michigan State line and continuing south to Interstate 280, then south on I-280 to the Ohio Turnpike (I-80/I-90), then east on the Ohio Turnpike to the Erie-Lorain County line, then north to Lake Erie, then following the Lake Erie shoreline at a distance of 200 yards offshore, then following the shoreline west toward and around the northern tip of Cedar Point Amusement Park, then continuing from the westernmost point of Cedar Point toward the southernmost tip of the sand bar at the mouth of Sandusky Bay and out into Lake Erie at a distance of 200 yards offshore continuing parallel to the Lake Erie shoreline north and west toward the northernmost tip of Cedar Point National Wildlife Refuge, then following a direct line toward the southernmost tip of Wood Tick Peninsula in Michigan to a point that intersects the Ohio-Michigan State line, then following the State line back to the point of the beginning.

North Zone: That portion of the State, excluding the Lake Erie Marsh Zone, north of a line extending east from the Indiana State line along U.S. Highway (U.S.) 33 to State Route (SR) 127, then south along SR 127 to SR 703, then south along SR 703 and including all lands within the Mercer Wildlife Area to SR 219, then east along SR 219 to SR 364, then north along SR 364 and including all lands within the St. Mary's Fish Hatchery to SR 703, then east along SR 703 to SR 66, then north along SR 66 to U.S. 33, then east along U.S. 33 to SR 385, then east along SR 385 to SR 117, then south along SR 117 to SR 273, then east along SR 273 to SR 31, then south along SR 31 to SR 739, then east along SR 739 to SR 4, then north along SR 4 to SR 95, then east along SR 95 to SR 13, then southeast along SR 13 to SR 3, then northeast along SR 3 to SR 60, then north along SR 60 to U.S. 30, then east along U.S. 30 to SR 3, then south along SR 3 to SR 226, then south along SR 226 to SR 514, then southwest along SR 514 to SR 754, then south along SR 754 to SR 39/60, then east along SR 39/60 to SR 241, then north along SR 241 to U.S. 30, then east along U.S. 30 to SR 39, then east along SR 39 to the Pennsylvania State line.

South Zone: The remainder of Ohio not included in the Lake Erie Marsh Zone or the North Zone.

Tennessee

Reelfoot Zone: All or portions of Lake and Obion Counties.

Remainder of State: That portion of Tennessee outside of the Reelfoot Zone.

Wisconsin

North Zone: That portion of the State north of a line extending east from the Minnesota State line along U.S. Highway 10 to U.S. Highway 41, then north on U.S. Highway 41 to the Michigan State line.

Open Water Zone: That portion of the State extending 500 feet or greater from the Lake Michigan shoreline bounded by the Michigan State line and the Illinois State line.

South Zone: The remainder of the State.

Central Flyway

Colorado (Central Flyway Portion)

Special Teal Season Area: Lake and Chaffee Counties and that portion of the State east of Interstate Highway 25.

Northeast Zone: All areas east of Interstate 25 and north of Interstate 70.

Southeast Zone: All areas east of Interstate 25 and south of Interstate 70, and all of El Paso, Pueblo, Huerfano, and Las Animas Counties.

Mountain/Foothills Zone: All areas west of Interstate 25 and east of the Continental Divide, except El Paso, Pueblo, Huerfano, and Las Animas Counties.

Kansas

High Plains: That portion of the State west of U.S. 283.

Low Plains Early Zone: That part of Kansas bounded by a line from the Federal Hwy U.S.-283 and State Hwy 96 junction, then east on State Hwy 96 to its junction with Federal Hwy U.S.-183, then north on Federal Hwy U.S.-183 to its junction with Federal Hwy U.S.-24, then east on Federal Hwy U.S.-24 to its junction with Federal Hwy U.S.-281, then north on Federal Hwy U.S.-281 to its junction with Federal Hwy U.S.-36, then east on Federal Hwy U.S.-36 to its junction with State Hwy K-199, then south on State Hwy K-199 to its junction with Republic County 30th Road, then south on Republic County 30th Road to its junction with State Hwy K-148, then east on State Hwy K-148 to its junction with Republic County 50th Road, then south on Republic County 50th Road to its junction with Cloud County 40th Road, then south on Cloud County 40th Road to its junction with State Hwy K-9, then west on State Hwy K-9 to its

junction with Federal Hwy U.S.-24, then west on Federal Hwy U.S.-24 to its junction with Federal Hwy U.S.-181, then south on Federal Hwy U.S.-181 to its junction with State Hwy K-18, then west on State Hwy K-18 to its junction with Federal Hwy U.S.-281, then south on Federal Hwy U.S.-281 to its junction with State Hwy K-4, then east on State Hwy K-4 to its junction with interstate Hwy I-135, then south on interstate Hwy I-135 to its junction with State Hwy K-61, then southwest on State Hwy K-61 to its junction with McPherson County 14th Avenue, then south on McPherson County 14th Avenue to its junction with McPherson County Arapaho Road, then west on McPherson County Arapaho Road to its junction with State Hwy K-61, then southwest on State Hwy K-61 to its junction with State Hwy K-96, then northwest on State Hwy K-96 to its junction with Federal Hwy U.S.-56, then southwest on Federal Hwy U.S.-56 to its junction with State Hwy K-19, then east on State Hwy K-19 to its junction with Federal Hwy U.S.-281, then south on Federal Hwy U.S.-281 to its junction with Federal Hwy U.S.-54, then west on Federal Hwy U.S.-54 to its junction with Federal Hwy U.S.-183, then north on Federal Hwy U.S.-183 to its junction with Federal Hwy U.S.-56, then southwest on Federal Hwy U.S.-56 to its junction with North Main Street in Spearville, then south on North Main Street to Davis Street, then east on Davis Street to Ford County Road 126 (South Stafford Street), then south on Ford County Road 126 to Garnett Road, then east on Garnett Road to Ford County Road 126, then south on Ford County Road 126 to Ford Spearville Road, then west on Ford Spearville Road to its junction with Federal Hwy U.S.-400, then northwest on Federal Hwy U.S.-400 to its junction with Federal Hwy U.S.-283, and then north on Federal Hwy U.S.-283 to its junction with Federal Hwy U.S.-96.

Low Plains Late Zone: That part of Kansas bounded by a line from the Federal Hwy U.S.-283 and State Hwy 96 junction, then north on Federal Hwy U.S.-283 to the Kansas-Nebraska State line, then east along the Kansas-Nebraska State line to its junction with the Kansas-Missouri State line, then southeast along the Kansas-Missouri State line to its junction with State Hwy K-68, then west on State Hwy K-68 to its junction with interstate Hwy I-35, then southwest on interstate Hwy I-35 to its junction with Butler County NE 150th Street, then west on Butler County NE 150th Street to its junction with Federal Hwy U.S.-77, then south on Federal Hwy U.S.-77 to its junction

with the Kansas-Oklahoma State line, then west along the Kansas-Oklahoma State line to its junction with Federal Hwy U.S.-283, then north on Federal Hwy U.S.-283 to its junction with Federal Hwy U.S.-400, then east on Federal Hwy U.S.-400 to its junction with Ford Spearville Road, then east on Ford Spearville Road to Ford County Road 126 (South Stafford Street), then north on Ford County Road 126 to Garnett Road, then west on Garnett Road to Ford County Road 126, then north on Ford County Road 126 to Davis Street, then west on Davis Street to North Main Street, then north on North Main Street to its junction with Federal Hwy U.S.-56, then east on Federal Hwy U.S.-56 to its junction with Federal Hwy U.S.-183, then south on Federal Hwy U.S.-183 to its junction with Federal Hwy U.S.-54, then east on Federal Hwy U.S.-54 to its junction with Federal Hwy U.S.-281, then north on Federal Hwy U.S.-281 to its junction with State Hwy K-19, then west on State Hwy K-19 to its junction with Federal Hwy U.S.-56, then east on Federal Hwy U.S.-56 to its junction with State Hwy K-96, then southeast on State Hwy K-96 to its junction with State Hwy K-61, then northeast on State Hwy K-61 to its junction with McPherson County Arapaho Road, then east on McPherson County Arapaho Road to its junction with McPherson County 14th Avenue, then north on McPherson County 14th Avenue to its junction with State Hwy K-61, then east on State Hwy K-61 to its junction with interstate Hwy I-135, then north on interstate Hwy I-135 to its junction with State Hwy K-4, then west on State Hwy K-4 to its junction with Federal Hwy U.S.-281, then north on Federal Hwy U.S.-281 to its junction with State Hwy K-18, then east on State Hwy K-18 to its junction with Federal Hwy U.S.-181, then north on Federal Hwy U.S.-181 to its junction with Federal Hwy U.S.-24, then east on Federal Hwy U.S.-24 to its junction with State Hwy K-9, then east on State Hwy K-9 to its junction with Cloud County 40th Road, then north on Cloud County 40th Road to its junction with Republic County 50th Road, then north on Republic County 50th Road to its junction with State Hwy K-148, then west on State Hwy K-148 to its junction with Republic County 30th Road, then north on Republic County 30th Road to its junction with State Hwy K-199, then north on State Hwy K-199 to its junction with Federal Hwy U.S.-36, then west on Federal Hwy U.S.-36 to its junction with Federal Hwy U.S.-281, then south on Federal Hwy U.S.-281 to its junction with Federal Hwy U.S.-24, then west on

Federal Hwy U.S.-24 to its junction with Federal Hwy U.S.-183, then south on Federal Hwy U.S.-183 to its junction with Federal Hwy U.S.-96, and then west on Federal Hwy U.S.-96 to its junction with Federal Hwy U.S.-283.

Low Plains Southeast Zone: That part of Kansas bounded by a line from the Missouri-Kansas State line west on K-68 to its junction with I-35, then southwest on I-35 to its junction with Butler County, NE 150th Street, then west on NE 150th Street to its junction with Federal Hwy U.S.-77, then south on Federal Hwy U.S.-77 to the Oklahoma-Kansas State line, then east along the Kansas-Oklahoma State line to its junction with the Kansas-Missouri State line, then north along the Kansas-Missouri State line to its junction with State Hwy K-68.

Montana (Central Flyway Portion)

Zone 1: The Counties of Blaine, Carter, Daniels, Dawson, Fallon, Fergus, Garfield, Golden Valley, Judith Basin, McCone, Musselshell, Petroleum, Phillips, Powder River, Richland, Roosevelt, Sheridan, Stillwater, Sweet Grass, Valley, Wheatland, and Wibaux.

Zone 2: The Counties of Big Horn, Carbon, Custer, Prairie, Rosebud, Treasure, and Yellowstone.

Nebraska

High Plains: That portion of Nebraska lying west of a line beginning at the South Dakota-Nebraska border on U.S. Hwy 183; south on U.S. Hwy 183 to U.S. Hwy 20; west on U.S. Hwy 20 to NE Hwy 7; south on NE Hwy 7 to NE Hwy 91; southwest on NE Hwy 91 to NE Hwy 2; southeast on NE Hwy 2 to NE Hwy 92; west on NE Hwy 92 to NE Hwy 40; south on NE Hwy 40 to NE Hwy 47; south on NE Hwy 47 to NE Hwy 23; east on NE Hwy 23 to U.S. Hwy 283; and south on U.S. Hwy 283 to the Kansas-Nebraska border.

Zone 1: Area bounded by designated Federal and State highways and political boundaries beginning at the South Dakota-Nebraska border at U.S. Hwy 183; south along Hwy 183 to NE Hwy 12; east to NE Hwy 137; south to U.S. Hwy 20; east to U.S. Hwy 281; north to the Niobrara River; east along the Niobrara River to the Boyd County Line; north along the Boyd County line to NE Hwy 12; east to NE 26E Spur; north along the NE 26E Spur to the Ponca State Park boat ramp; north and west along the Missouri River to the Nebraska-South Dakota border; west along the Nebraska-South Dakota border to U.S. Hwy 183. Both banks of the Niobrara River in Keya Paha and Boyd counties east of U.S. Hwy 183 shall be included in Zone 1.

Zone 2: Those areas of the state that are not contained in Zones 1, 3, or 4.

Zone 3: Area bounded by designated Federal and State highways, County Roads, and political boundaries beginning at the Wyoming-Nebraska border at its northernmost intersection with the Interstate Canal; southeast along the Interstate Canal to the northern border of Scotts Bluff County; east along northern borders of Scotts Bluff and Morrill Counties to Morrill County Road 125; south to Morrill County Rd 94; east to County Rd 135; south to County Rd 88; east to County Rd 147; south to County Rd 88; southeast to County Rd 86; east to County Rd 151; south to County Rd 80; east to County Rd 161; south to County Rd 76; east to County Rd 165; south to County Rd 167; south to U.S. Hwy 26; east to County Rd 171; north to County Rd 68; east to County Rd 183; south to County Rd 64; east to County Rd 189; north to County Rd 70; east to County Rd 201; south to County Rd 60A; east to County Rd 203; south to County Rd 52; east to Keith County Line; north along the Keith County line to the northern border of Keith County; east along the northern boundaries of Keith and Lincoln Counties to NE Hwy 97; south to U.S. Hwy 83; south to E Hall School Rd; east to North Airport Road; south to U.S. Hwy 30; east to NE Hwy 47; south to NE Hwy 23; east on NE Hwy 23 to U.S. Hwy 283; south on U.S. Hwy 283 to the Kansas-Nebraska border; west along Kansas-Nebraska border to the Nebraska-Colorado border; north and west to the Wyoming-Nebraska border; north along the Wyoming-Nebraska border to its northernmost intersection with the Interstate Canal.

Zone 4: Area encompassed by designated Federal and State highways and County Roads beginning at the intersection of U.S. Hwy 283 at the Kansas-Nebraska border; north to NE Hwy 23; west to NE Hwy 47; north to Dawson County Rd 769; east to County Rd 423; south to County Rd 766; east to County Rd 428; south to County Rd 763; east to NE Hwy 21; south to County Rd 761; east on County Rd 761 to County Road 437; south to the Dawson County Canal; southeast along Dawson County Canal; east to County Rd 444; south to U.S. Hwy 30; east to U.S. Hwy 183; north to Buffalo County Rd 100; east to 46th Ave.; north to NE Hwy 40; east to NE Hwy 10; north to County Rd 220 and Hall County Husker Highway; east to Hall County S 70th Rd; north to NE Hwy 2; east to U.S. Hwy 281; north to Chapman Rd; east to 7th Rd; south to U.S. Hwy 30; north and east to NE Hwy 14; south to County Rd 22; west to County Rd M; south to County Rd 21;

west to County Rd K; south to U.S. Hwy 34; west to NE Hwy 2; south to U.S. Hwy I-80; west to Gunbarrel Rd (Hall/Hamilton county line); south to Giltner Rd; west to U.S. Hwy 281; south to W 82nd St; west to Holstein Ave.; south to U.S. Hwy 34; west to NE Hwy 10; north to Kearney County Rd R and Phelps County Rd 742; west to Gosper County Rd 433; south to N Railway Street; west to Commercial Ave.; south to NE Hwy 23; west to Gosper County Rd 427; south to Gosper County Rd 737; west to Gosper County Rd 426; south to Gosper County Rd 735; east to Gosper County Rd 427; south to Furnas County Rd 276; west to Furnas County Rd 425.5/425; south to U.S. Hwy 34; east to NE Hwy 4; east to NE Hwy 10; south to U.S. Hwy 136; east to NE Hwy 14; south to NE Hwy 8; east to U.S. Hwy 81; north to NE Hwy 4; east to NE Hwy 15; north to U.S. Hwy 6; east to NE Hwy 33; east to SW 142 Street; south to W. Hallam Rd; east to SW 100 Rd; south to W. Chestnut Rd; west to NE Hwy 103; south to NE Hwy 4; west to NE Hwy 15; south to U.S. Hwy 136; east to Jefferson County Rd 578 Ave.; south to PWF Rd; east to NE Hwy 103; south to NE Hwy 8; east to U.S. Hwy 75; north to U.S. Hwy 136; east to the intersection of U.S. Hwy 136 and the Steamboat Trace (Trace); north along the Trace to the intersection with Federal Levee R-562; north along Federal Levee R-562 to the intersection with Nemaha County Rd 643A; south to the Trace; north along the Trace/Burlington Northern Railroad right-of-way to NE Hwy 2; west to U.S. Hwy 75; north to NE Hwy 2; west to NE Hwy 50; north to Otoe County Rd D; east to N 32nd Rd; north to Otoe County Rd B; west to NE Hwy 50; north to U.S. Hwy 34; west to NE Hwy 63; north to NE Hwy 66; north and west to U.S. Hwy 77; north to NE Hwy 109; west along NE Hwy 109 and Saunders County Rd X to Saunders County 19; south to NE Hwy 92; west to NE Hwy Spur 12F; south to Butler County Rd 30; east to County Rd X; south to County Rd 27; west to County Rd W; south to County Rd 26; east to County Rd X; south to County Rd 21 (Seward County Line); west to NE Hwy 15; north to County Rd 34; west to County Rd H; south to NE Hwy 92; west to U.S. Hwy 81; south to NE Hwy 66; west to Dark Island Trail, north to Merrick County Rd M; east to Merrick County Rd 18; north to NE Hwy 92; west to NE Hwy 14; north to NE Hwy 52; west and north to NE Hwy 91; west to U.S. Hwy 281; south to NE Hwy 58; west to NE Hwy 11; west and south to NE Hwy 2; west to NE Hwy 68; north to NE Hwy L82A; west to NE Hwy 10; north to NE Hwy 92; west to U.S. Hwy

183; north to Round Valley Rd; west to Sargent River Rd; west to Sargent Rd; west to NE Hwy S21A; west to NE Hwy 2; north to NE Hwy 91 to North Loup Spur Rd; north to North Loup River Rd; north and east along to Pleasant Valley/Worth Rd; east to Loup County Line; north along the Loup County Line to Loup-Brown County line; east along northern boundaries of Loup and Garfield Counties to NE Hwy 11; south to Cedar River Road; east and south to NE Hwy 70; east to U.S. Hwy 281; north to NE Hwy 70; east to NE Hwy 14; south to NE Hwy 39; southeast to NE Hwy 22; east to U.S. Hwy 81; southeast to U.S. Hwy 30; east to the Iowa-Nebraska border; south to the Missouri-Nebraska border; south to Kansas-Nebraska border; west along Kansas-Nebraska border to U.S. Hwy 283.

New Mexico (Central Flyway Portion)

North Zone: That portion of the State north of I-40 and U.S. 54.

South Zone: The remainder of New Mexico.

North Dakota

High Plains: That portion of the State south and west of a line beginning at the junction of U.S. Hwy 83 and the South Dakota State line, then north along U.S. Hwy 83 and I-94 to ND Hwy 41, then north on ND Hwy 41 to ND Hwy 53, then west on ND Hwy 53 to U.S. Hwy 83, then north on U.S. Hwy 83 to U.S. Hwy 2, then west on U.S. Hwy 2 to the Williams County line, then north and west along the Williams and Divide County lines to the Canadian border.

Low Plains: The remainder of North Dakota.

Oklahoma

High Plains: The Counties of Beaver, Cimarron, and Texas.

Low Plains Zone 1: That portion of the State east of the High Plains Zone and north of a line extending east from the Texas State line along OK 33 to OK 47, east along OK 47 to U.S. 183, south along U.S. 183 to I-40, east along I-40 to U.S. 177, north along U.S. 177 to OK 33, east along OK 33 to OK 18, north along OK 18 to OK 51, west along OK 51 to I-35, north along I-35 to U.S. 412, west along U.S. 412 to OK 132, then north along OK 132 to the Kansas State line.

Low Plains Zone 2: The remainder of Oklahoma.

South Dakota

High Plains: That portion of the State west of a line beginning at the North Dakota State line and extending south along U.S. 83 to U.S. 14, east on U.S. 14 to Blunt, south on the Blunt-Canning Road to SD 34, east and south on SD 34

to SD 50 at Lee's Corner, south on SD 50 to I-90, east on I-90 to SD 50, south on SD 50 to SD 44, west on SD 44 across the Platte-Winner bridge to SD 47, south on SD 47 to U.S. 18, east on U.S. 18 to SD 47, south on SD 47 to the Nebraska State line.

Low Plains North Zone: That portion of northeastern South Dakota east of the High Plains Unit and north of a line extending east along U.S. 212 to the Minnesota State line.

Low Plains South Zone: That portion of Gregory County east of SD 47 and south of SD 44; Charles Mix County south of SD 44 to the Douglas County line; south on SD 50 to Geddes; east on the Geddes Highway to U.S. 281; south on U.S. 281 and U.S. 18 to SD 50; south and east on SD 50 to the Bon Homme County line; the Counties of Bon Homme, Yankton, and Clay south of SD 50; and Union County south and west of SD 50 and I-29.

Low Plains Middle Zone: The remainder of South Dakota.

Texas

High Plains: That portion of the State west of a line extending south from the Oklahoma State line along U.S. 183 to Vernon, south along U.S. 283 to Albany, south along TX 6 to TX 351 to Abilene, south along U.S. 277 to Del Rio, then south along the Del Rio International Toll Bridge access road to the Mexico border.

Low Plains North Zone: That portion of northeastern Texas east of the High Plains Zone and north of a line beginning at the International Toll Bridge south of Del Rio, then extending east on U.S. 90 to San Antonio, then continuing east on I-10 to the Louisiana State line at Orange, Texas.

Low Plains South Zone: The remainder of Texas.

Wyoming (Central Flyway portion)

Zone C1: Big Horn, Converse, Goshen, Hot Springs, Natrona, Park, Platte, and Washakie Counties; and Fremont County excluding the portions west or south of the Continental Divide.

Zone C2: Campbell, Crook, Johnson, Niobrara, Sheridan, and Weston Counties.

Zone C3: Albany and Laramie Counties; and that portion of Carbon County east of the Continental Divide.

Pacific Flyway

Arizona

North Zone: Game Management Units 1-5, those portions of Game Management Units 6 and 8 within Coconino County, and Game Management Units 7, 9, and 12A.

South Zone: Those portions of Game Management Units 6 and 8 in Yavapai County, and Game Management Units 10 and 12B-45.

California

Northeastern Zone: That portion of California lying east and north of a line beginning at the intersection of Interstate 5 with the California-Oregon line; south along Interstate 5 to its junction with Walters Lane south of the town of Yreka; west along Walters Lane to its junction with Easy Street; south along Easy Street to the junction with Old Highway 99; south along Old Highway 99 to the point of intersection with Interstate 5 north of the town of Weed; south along Interstate 5 to its junction with Highway 89; east and south along Highway 89 to Main Street Greenville; north and east to its junction with North Valley Road; south to its junction of Diamond Mountain Road; north and east to its junction with North Arm Road; south and west to the junction of North Valley Road; south to the junction with Arlington Road (A22); west to the junction of Highway 89; south and west to the junction of Highway 70; east on Highway 70 to Highway 395; south and east on Highway 395 to the point of intersection with the California-Nevada State line; north along the California-Nevada State line to the junction of the California-Nevada Oregon State lines; west along the California-Oregon State line to the point of origin.

Colorado River Zone: Those portions of San Bernardino, Riverside, and Imperial Counties east of a line from the intersection of Highway 95 with the California-Nevada State line; south on Highway 95 through the junction with Highway 40; south on Highway 95 to Vidal Junction; south through the town of Rice to the San Bernardino-Riverside County line on a road known as "Aqueduct Road" also known as Highway 62 in San Bernardino County; southwest on Highway 62 to Desert Center Rice Road; south on Desert Center Rice Road/Highway 177 to the town of Desert Center; east 31 miles on Interstate 10 to its intersection with Wiley Well Road; south on Wiley Well Road to Wiley Well; southeast on Milpitas Wash Road to the Blythe, Brawley, Davis Lake intersections; south on Blythe Ogilby Road also known as County Highway 34 to its intersection with Ogilby Road; south on Ogilby Road to its intersection with Interstate 8; east 7 miles on Interstate 8 to its intersection with the Andrade-Algodones Road/Highway 186; south on Highway 186 to its intersection with the U.S.-Mexico border at Los Algodones, Mexico.

Southern Zone: That portion of southern California (but excluding the Colorado River zone) south and east of a line beginning at the mouth of the Santa Maria River at the Pacific Ocean; east along the Santa Maria River to where it crosses Highway 101-166 near the City of Santa Maria; north on Highway 101-166; east on Highway 166 to the junction with Highway 99; south on Highway 99 to the junction of Interstate 5; south on Interstate 5 to the crest of the Tehachapi Mountains at Tejon Pass; east and north along the crest of the Tehachapi Mountains to where it intersects Highway 178 at Walker Pass; east on Highway 178 to the junction of Highway 395 at the town of Inyokern; south on Highway 395 to the junction of Highway 58; east on Highway 58 to the junction of Interstate 15; east on Interstate 15 to the junction with Highway 127; north on Highway 127 to the point of intersection with the California-Nevada State line.

Southern San Joaquin Valley Zone: All of Kings and Tulare Counties and that portion of Kern County north of the Southern Zone.

Balance of State Zone: The remainder of California not included in the Northeastern, Colorado River, Southern, and the Southern San Joaquin Valley Zones.

Colorado (Pacific Flyway Portion)

Eastern Zone: Routt, Grand, Summit, Eagle, and Pitkin Counties, those portions of Saguache, San Juan, Hinsdale, and Mineral Counties west of the Continental Divide, those portions of Gunnison County except the North Fork of the Gunnison River Valley (Game Management Units 521, 53, and 63), and that portion of Moffat County east of the northern intersection of Moffat County Road 29 with the Moffat-Routt County line, south along Moffat County Road 29 to the intersection of Moffat County Road 29 with the Moffat-Routt County line (Elkhead Reservoir State Park).

Western Zone: All areas west of the Continental Divide not included in the Eastern Zone.

Idaho

Zone 1: All lands and waters within the Fort Hall Indian Reservation, including private in-holdings; Bannock County; Bingham County except that portion within the Blackfoot Reservoir drainage; Caribou County within the Fort Hall Indian Reservation; and Power County east of State Highway 37 and State Highway 39.

Zone 2: Bear Lake, Bonneville, Butte, Clark, Fremont, Jefferson, Madison, and Teton Counties; Bingham County within

the Blackfoot Reservoir drainage; and Caribou County except within the Fort Hall Indian Reservation.

Zone 3: Ada, Adams, Benewah, Blaine, Boise, Bonner, Boundary, Camas, Canyon, Cassia, Clearwater, Custer, Elmore, Franklin, Gem, Gooding, Idaho, Jerome, Kootenai, Latah, Lemhi, Lewis, Lincoln, Minidoka, Nez Perce, Oneida, Owyhee, Payette, Shoshone, Twin Falls, and Washington Counties; and Power County west of State Highway 37 and State Highway 39.

Zone 4: Valley County.

Nevada

Northeast Zone: Elko, Eureka, Lander, and White Pine Counties.

Northwest Zone: Carson City, Churchill, Douglas, Humboldt, Lyon, Mineral, Pershing, Storey, and Washoe Counties.

South Zone: Clark, Esmeralda, Lincoln, and Nye Counties.

Moapa Valley Special Management Area: That portion of Clark County including the Moapa Valley to the confluence of the Muddy and Virgin Rivers.

Oregon

Zone 1: Benton, Clackamas, Clatsop, Columbia, Coos, Curry, Douglas, Gilliam, Hood River, Jackson, Josephine, Lane, Lincoln, Linn, Marion, Morrow, Multnomah, Polk, Sherman, Tillamook, Umatilla, Wasco, Washington, and Yamhill, Counties.

Zone 2: The remainder of Oregon not included in Zone 1.

Utah

Zone 1: Box Elder, Cache, Daggett, Davis, Duchesne, Morgan, Rich, Salt Lake, Summit, Uintah, Utah, Wasatch, and Weber Counties, and that part of Toole County north of I-80.

Zone 2: The remainder of Utah not included in Zone 1.

Washington

East Zone: All areas east of the Pacific Crest Trail and east of the Big White Salmon River in Klickitat County.

West Zone: The remainder of Washington not included in the East Zone.

Wyoming (Pacific Flyway Portion)

Snake River Zone: Beginning at the south boundary of Yellowstone National Park and the Continental Divide; south along the Continental Divide to Union Pass and the Union Pass Road (U.S.F.S. Road 600); west and south along the Union Pass Road to U.S.F.S. Road 605; south along U.S.F.S. Road 605 to the Bridger-Teton National Forest boundary; along the national forest boundary to the

Idaho State line; north along the Idaho State line to the south boundary of Yellowstone National Park; east along the Yellowstone National Park boundary to the Continental Divide.

Balance of State Zone: The remainder of the Pacific Flyway portion of Wyoming not included in the Snake River Zone.

Geese

Atlantic Flyway

Connecticut

Early Canada and Cackling Goose Seasons

South Zone: Same as for ducks.

North Zone: Same as for ducks.

Regular Seasons

AP Unit: Litchfield County and the portion of Hartford County west of a line beginning at the Massachusetts border in Suffield and extending south along Route 159 to its intersection with I-91 in Hartford, and then extending south along I-91 to its intersection with the Hartford-Middlesex County line.

NAP H-Unit: That part of the State east of a line beginning at the Massachusetts border in Suffield and extending south along Route 159 to its intersection with I-91 in Hartford and then extending south along I-91 to State Street in New Haven; then south on State Street to Route 34, west on Route 34 to Route 8, south along Route 8 to Route 110, south along Route 110 to Route 15, north along Route 15 to the Milford Parkway, south along the Milford Parkway to I-95, north along I-95 to the intersection with the east shore of the Quinnipiac River, south to the mouth of the Quinnipiac River and then south along the eastern shore of New Haven Harbor to the Long Island Sound.

Atlantic Flyway Resident Population (AFRP) Unit: Remainder of the State not included in AP and NAP Units.

South Zone: Same as for ducks.

Maine

North NAP-H Zone: Same as North Zone for ducks.

Coastal NAP-L Zone: Same as Coastal Zone for ducks.

South NAP-H Zone: Same as South Zone for ducks.

Maryland

Early Canada and Cackling Goose Seasons

Eastern Unit: Calvert, Caroline, Cecil, Dorchester, Harford, Kent, Queen Anne's, St. Mary's, Somerset, Talbot, Wicomico, and Worcester Counties; and that part of Anne Arundel County east of Interstate 895, Interstate 97, and

Route 3; that part of Prince George's County east of Route 3 and Route 301; and that part of Charles County east of Route 301 to the Virginia State line.

Western Unit: Allegany, Baltimore, Carroll, Frederick, Garrett, Howard, Montgomery, and Washington Counties and that part of Anne Arundel County west of Interstate 895, Interstate 97, and Route 3; that part of Prince George's County west of Route 3 and Route 301; and that part of Charles County west of Route 301 to the Virginia State line.

Regular Seasons

Resident Population (RP) Zone: Allegany, Frederick, Garrett, Montgomery, and Washington Counties; that portion of Prince George's County west of Route 3 and Route 301; that portion of Charles County west of Route 301 to the Virginia State line; and that portion of Carroll County west of Route 31 to the intersection of Route 97, and west of Route 97 to the Pennsylvania State line.

AP Zone: Remainder of the State.

Massachusetts

NAP Zone: Central and Coastal Zones (see duck zones).

AP Zone: The Western Zone (see duck zones).

Special Late Season Area: The Central Zone and that portion of the Coastal Zone (see duck zones) that lies north of the Cape Cod Canal, north to the New Hampshire State line.

New Hampshire

Same zones as for ducks.

New Jersey

AP Zone: North and South Zones (see duck zones).

NAP Zone: The Coastal Zone (see duck zones).

Special Late Season Area: In northern New Jersey, that portion of the State within a continuous line that runs east along the New York State boundary line to the Hudson River; then south along the New York State boundary to its intersection with Route 440 at Perth Amboy; then west on Route 440 to its intersection with Route 287; then west along Route 287 to its intersection with Route 206 in Bedminster (Exit 18); then north along Route 206 to its intersection with Route 94; then west along Route 94 to the toll bridge in Columbia; then north along the Pennsylvania State boundary in the Delaware River to the beginning point. In southern New Jersey, that portion of the State within a continuous line that runs west from the Atlantic Ocean at Ship Bottom along Route 72 to Route 70; then west along Route 70 to Route 206; then south along

Route 206 to Route 536; then west along Route 536 to Route 322; then west along Route 322 to Route 55; then south along Route 55 to Route 553 (Buck Road); then south along Route 553 to Route 40; then east along Route 40 to route 55; then south along Route 55 to Route 552 (Sherman Avenue); then west along Route 552 to Carmel Road; then south along Carmel Road to Route 49; then east along Route 49 to Route 555; then south along Route 555 to Route 553; then east along Route 553 to Route 649; then north along Route 649 to Route 670; then east along Route 670 to Route 47; then north along Route 47 to Route 548; then east along Route 548 to Route 49; then east along Route 49 to Route 50; then south along Route 50 to Route 9; then south along Route 9 to Route 625 (Sea Isle City Boulevard); then east along Route 625 to the Atlantic Ocean; then north to the beginning point.

New York

Lake Champlain Goose Area: The same as the Lake Champlain Waterfowl Hunting Zone, which is that area of New York State lying east and north of a continuous line extending along Route 11 from the New York-Canada international boundary south to Route 9B, south along Route 9B to Route 9, south along Route 9 to Route 22 south of Keeseville, south along Route 22 to the west shore of South Bay along and around the shoreline of South Bay to Route 22 on the east shore of South Bay, southeast along Route 22 to Route 4, northeast along Route 4 to the New York-Vermont boundary.

Northeast Goose Area: The same as the Northeastern Waterfowl Hunting Zone, which is that area of New York State lying north of a continuous line extending from Lake Ontario east along the north shore of the Salmon River to Interstate 81, south along Interstate 81 to Route 31, east along Route 31 to Route 13, north along Route 13 to Route 49, east along Route 49 to Route 365, east along Route 365 to Route 28, east along Route 28 to Route 29, east along Route 29 to Route 22 at Greenwich Junction, north along Route 22 to Washington County Route 153, east along CR 153 to the New York-Vermont boundary, exclusive of the Lake Champlain Zone.

East Central Goose Area: That area of New York State lying inside of a continuous line extending from Interstate Route 81 in Cicero, east along Route 31 to Route 13, north along Route 13 to Route 49, east along Route 49 to Route 365, east along Route 365 to Route 28, east along Route 28 to Route 29, east along Route 29 to Route 147 at Kimball Corners, south along Route 147 to Schenectady County Route 40 (West

Glenville Road), west along Route 40 to Touareuna Road, south along Touareuna Road to Schenectady County Route 59, south along Route 59 to State Route 5, east along Route 5 to the Lock 9 bridge, southwest along the Lock 9 bridge to Route 5S, southeast along Route 5S to Schenectady County Route 58, southwest along Route 58 to the NYS Thruway, south along the Thruway to Route 7, southwest along Route 7 to Schenectady County Route 103, south along Route 103 to Route 406, east along Route 406 to Schenectady County Route 99 (Windy Hill Road), south along Route 99 to Dunnsville Road, south along Dunnsville Road to Route 397, southwest along Route 397 to Route 146 at Altamont, west along Route 146 to Albany County Route 252, northwest along Route 252 to Schenectady County Route 131, north along Route 131 to Route 7, west along Route 7 to Route 10 at Richmondville, south on Route 10 to Route 23 at Stamford, west along Route 23 to Route 7 in Oneonta, southwest along Route 7 to Route 79 to Interstate Route 88 near Harpursville, west along Route 88 to Interstate Route 81, north along Route 81 to the point of beginning.

West Central Goose Area: That area of New York State lying within a continuous line beginning at the point where the northerly extension of Route 269 (County Line Road on the Niagara-Orleans County boundary) meets the international boundary with Canada, south to the shore of Lake Ontario at the eastern boundary of Golden Hill State Park, south along the extension of Route 269 and Route 269 to Route 104 at Jeddo, west along Route 104 to Niagara County Route 271, south along Route 271 to Route 31E at Middleport, south along Route 31E to Route 31, west along Route 31 to Griswold Street, south along Griswold Street to Ditch Road, south along Ditch Road to Foot Road, south along Foot Road to the north bank of Tonawanda Creek, west along the north bank of Tonawanda Creek to Route 93, south along Route 93 to Route 5, east along Route 5 to Crittenden-Murrays Corners Road, south on Crittenden-Murrays Corners Road to the NYS Thruway, east along the Thruway 90 to Route 98 (at Thruway Exit 48) in Batavia, south along Route 98 to Route 20, east along Route 20 to Route 19 in Pavilion Center, south along Route 19 to Route 63, southeast along Route 63 to Route 246, south along Route 246 to Route 39 in Perry, northeast along Route 39 to Route 20A, northeast along Route 20A to Route 20, east along Route 20 to Route 364 (near Canandaigua), south and east along Route 364 to Yates

County Route 18 (Italy Valley Road), southwest along Route 18 to Yates County Route 34, east along Route 34 to Yates County Route 32, south along Route 32 to Steuben County Route 122, south along Route 122 to Route 53, south along Route 53 to Steuben County Route 74, east along Route 74 to Route 54A (near Pulteney), south along Route 54A to Steuben County Route 87, east along Route 87 to Steuben County Route 96, east along Route 96 to Steuben County Route 114, east along Route 114 to Schuyler County Route 23, east and southeast along Route 23 to Schuyler County Route 28, southeast along Route 28 to Route 409 at Watkins Glen, south along Route 409 to Route 14, south along Route 14 to Route 224 at Montour Falls, east along Route 224 to Route 228 in Odessa, north along Route 228 to Route 79 in Mecklenburg, east along Route 79 to Route 366 in Ithaca, northeast along Route 366 to Route 13, northeast along Route 13 to Interstate Route 81 in Cortland, north along Route 81 to the north shore of the Salmon River to shore of Lake Ontario, extending generally northwest in a straight line to the nearest point of the international boundary with Canada, south and west along the international boundary to the point of beginning.

Hudson Valley Goose Area: That area of New York State lying within a continuous line extending from Route 4 at the New York-Vermont boundary, west and south along Route 4 to Route 149 at Fort Ann, west on Route 149 to Route 9, south along Route 9 to Interstate Route 87 (at Exit 20 in Glens Falls), south along Route 87 to Route 29, west along Route 29 to Route 147 at Kimball Corners, south along Route 147 to Schenectady County Route 40 (West Glenville Road), west along Route 40 to Touareuna Road, south along Touareuna Road to Schenectady County Route 59, south along Route 59 to State Route 5, east along Route 5 to the Lock 9 bridge, southwest along the Lock 9 bridge to Route 5S, southeast along Route 5S to Schenectady County Route 58, southwest along Route 58 to the NYS Thruway, south along the Thruway to Route 7, southwest along Route 7 to Schenectady County Route 103, south along Route 103 to Route 406, east along Route 406 to Schenectady County Route 99 (Windy Hill Road), south along Route 99 to Dunnsville Road, south along Dunnsville Road to Route 397, southwest along Route 397 to Route 146 at Altamont, southeast along Route 146 to Main Street in Altamont, west along Main Street to Route 156, southeast along Route 156 to Albany County Route 307, southeast along Route 307 to

Route 85A, southwest along Route 85A to Route 85, south along Route 85 to Route 443, southeast along Route 443 to Albany County Route 301 at Clarksville, southeast along Route 301 to Route 32, south along Route 32 to Route 23 at Cairo, west along Route 23 to Joseph Chadderdon Road, southeast along Joseph Chadderdon Road to Hearts Content Road (Greene County Route 31), southeast along Route 31 to Route 32, south along Route 32 to Greene County Route 23A, east along Route 23A to Interstate Route 87 (the NYS Thruway), south along Route 87 to Route 28 (Exit 19) near Kingston, northwest on Route 28 to Route 209, southwest on Route 209 to the New York-Pennsylvania boundary, southeast along the New York-Pennsylvania boundary to the New York-New Jersey boundary, southeast along the New York-New Jersey boundary to Route 210 near Greenwood Lake, northeast along Route 210 to Orange County Route 5, northeast along Orange County Route 5 to Route 105 in the Village of Monroe, east and north along Route 105 to Route 32, northeast along Route 32 to Orange County Route 107 (Quaker Avenue), east along Route 107 to Route 9W, north along Route 9W to the south bank of Moodna Creek, southeast along the south bank of Moodna Creek to the New Windsor-Cornwall town boundary, northeast along the New Windsor-Cornwall town boundary to the Orange-Dutchess County boundary (middle of the Hudson River), north along the county boundary to Interstate Route 84, east along Route 84 to the Dutchess-Putnam County boundary, east along the county boundary to the New York-Connecticut boundary, north along the New York-Connecticut boundary to the New York-Massachusetts boundary, north along the New York-Massachusetts boundary to the New York-Vermont boundary, north to the point of beginning.

Eastern Long Island Goose Area (NAP High Harvest Area): That area of Suffolk County lying east of a continuous line extending due south from the New York-Connecticut boundary to the northernmost end of Roanoke Avenue in the Town of Riverhead; then south on Roanoke Avenue (which becomes County Route 73) to State Route 25; then west on Route 25 to Peconic Avenue; then south on Peconic Avenue to County Route (CR) 104 (Riverleigh Avenue); then south on CR 104 to CR 31 (Old Riverhead Road); then south on CR 31 to Oak Street; then south on Oak Street to Potunk Lane; then west on Stevens Lane; then south on Jessup Avenue (in Westhampton Beach) to

Dune Road (CR 89); then due south to international waters.

Western Long Island Goose Area (RP Area): That area of Westchester County and its tidal waters southeast of Interstate Route 95 and that area of Nassau and Suffolk Counties lying west of a continuous line extending due south from the New York-Connecticut boundary to the northernmost end of Sound Road (just east of Wading River Marsh); then south on Sound Road to North Country Road; then west on North Country Road to Randall Road; then south on Randall Road to Route 25A, then west on Route 25A to the Sunken Meadow State Parkway; then south on the Sunken Meadow Parkway to the Sagtikos State Parkway; then south on the Sagtikos Parkway to the Robert Moses State Parkway; then south on the Robert Moses Parkway to its southernmost end; then due south to international waters.

Central Long Island Goose Area (NAP Low Harvest Area): That area of Suffolk County lying between the Western and Eastern Long Island Goose Areas, as defined above.

South Goose Area: The remainder of New York State, excluding New York City.

North Carolina

Northeast Zone: Includes the following counties or portions of counties: Bertie (that portion north and east of a line formed by NC 45 at the Washington County line to U.S. 17 in Midway, U.S. 17 in Midway to U.S. 13 in Windsor, U.S. 13 in Windsor to the Hertford County line), Camden, Chowan, Currituck, Dare, Hyde, Pasquotank, Perquimans, Tyrrell, and Washington.

RP Zone: Remainder of the State.

Pennsylvania

Resident Canada and Cackling Goose Zone: All of Pennsylvania except for the SJBZ Zone and the area east of route SR 97 from the Maryland State Line to the intersection of SR 194, east of SR 194 to the intersection of U.S. Route 30, south of U.S. Route 30 to SR 441, east of SR 441 to SR 743, east of SR 743 to intersection of I-81, east of I-81 to intersection of I-80, and south of I-80 to the New Jersey State line.

SJBZ Zone: The area north of I-80 and west of I-79 including in the city of Erie west of Bay Front Parkway to and including the Lake Erie Duck zone (Lake Erie, Presque Isle, and the area within 150 yards of the Lake Erie shoreline).

AP Zone: The area east of route SR 97 from Maryland State Line to the intersection of SR 194, east of SR 194 to intersection of U.S. Route 30, south of

U.S. Route 30 to SR 441, east of SR 441 to SR 743, east of SR 743 to intersection of I-81, east of I-81 to intersection of I-80, south of I-80 to the New Jersey State line.

Rhode Island

Special Area for Canada and Cackling Geese: Kent and Providence Counties and portions of the towns of Exeter and North Kingston within Washington County (see State regulations for detailed descriptions).

South Carolina

Canada and Cackling Goose Area: Statewide except for the following area:

East of U.S. 301: That portion of Clarendon County bounded to the North by S-14-25, to the East by Hwy 260, and to the South by the markers delineating the channel of the Santee River.

West of U.S. 301: That portion of Clarendon County bounded on the North by S-14-26 extending southward to that portion of Orangeburg County bordered by Hwy 6.

Vermont

Same zones as for ducks.

Virginia

AP Zone: The area east and south of the following line—the Stafford County line from the Potomac River west to Interstate 95 at Fredericksburg, then south along Interstate 95 to Petersburg, then Route 460 (SE) to City of Suffolk, then south along Route 32 to the North Carolina line.

SJBZ Zone: The area to the west of the AP Zone boundary and east of the following line: The “Blue Ridge” (mountain spine) at the West Virginia-Virginia Border (Loudoun County-Clarke County line) south to Interstate 64 (the Blue Ridge line follows county borders along the western edge of Loudoun-Fauquier-Rappahannock-Madison-Greene-Albemarle and into Nelson Counties), then east along Interstate Route 64 to Route 15, then south along Route 15 to the North Carolina line.

RP Zone: The remainder of the State west of the SJBZ Zone.

Mississippi Flyway

Arkansas

Northwest Zone: Baxter, Benton, Boone, Carroll, Conway, Crawford, Faulkner, Franklin, Johnson, Logan, Madison, Marion, Newton, Perry, Pope, Pulaski, Searcy, Sebastian, Scott, Van Buren, Washington, and Yell Counties.

Remainder of State: That portion of the State outside of the Northwest Zone.

Illinois

North Zone: That portion of the State north of a line extending west from the Indiana border along Interstate 80 to I-39, south along I-39 to Illinois Route 18, west along Illinois Route 18 to Illinois Route 29, south along Illinois Route 29 to Illinois Route 17, west along Illinois Route 17 to the Mississippi River, and due south across the Mississippi River to the Iowa border.

Central Zone: That portion of the State south of the North Goose Zone line to a line extending west from the Indiana border along I-70 to Illinois Route 4, south along Illinois Route 4 to Illinois Route 161, west along Illinois Route 161 to Illinois Route 158, south and west along Illinois Route 158 to Illinois Route 159, south along Illinois Route 159 to Illinois Route 3, south along Illinois Route 3 to St. Leo's Road, south along St. Leo's Road to Modoc Road, west along Modoc Road to Modoc Ferry Road, southwest along Modoc Ferry Road to Levee Road, southeast along Levee Road to County Route 12 (Modoc Ferry entrance Road), south along County Route 12 to the Modoc Ferry route and southwest on the Modoc Ferry route across the Mississippi River to the Missouri border.

South Zone: Same zone as for ducks.

South Central Zone: Same zone as for ducks.

Indiana

Same zones as for ducks.

Iowa

Same zones as for ducks.

Louisiana

North Zone: That portion of the State north of the line from the Texas border at State Hwy 190/12 east to State Hwy 49, then south on State Hwy 49 to Interstate 10, then east on Interstate 10 to Interstate 12, then east on Interstate 12 to Interstate 10, then east on Interstate 10 to the Mississippi State line.

South Zone: Remainder of the State.

Michigan

North Zone: Same as North duck zone.

Middle Zone: Same as Middle duck zone.

South Zone: Same as South duck zone.

Allegan County Game Management Unit (GMU): That area encompassed by a line beginning at the junction of 136th Avenue and Interstate Highway 196 in Lake Town Township and extending easterly along 136th Avenue to Michigan Highway 40, southerly along Michigan Highway 40 through the city of Allegan

to 108th Avenue in Trowbridge Township, westerly along 108th Avenue to 46th Street, northerly along 46th Street to 109th Avenue, westerly along 109th Avenue to I-196 in Casco Township, then northerly along I-196 to the point of beginning.

Muskegon Wastewater GMU: That portion of Muskegon County within the boundaries of the Muskegon County wastewater system, east of the Muskegon State Game Area, in sections 5, 6, 7, 8, 17, 18, 19, 20, 29, 30, and 32, T10N R14W, and sections 1, 2, 10, 11, 12, 13, 14, 24, and 25, T10N R15W, as posted.

Minnesota

Same zones as for ducks.

Missouri

Same zones as for ducks.

Ohio

Same zones as for ducks.

Tennessee

Reelfoot Zone: The lands and waters within the boundaries of Reelfoot Lake WMA only.

Remainder of State: The remainder of the State.

Wisconsin

North and South Zones: Same zones as for ducks.

Mississippi River Zone: That area encompassed by a line beginning at the intersection of the Burlington Northern & Santa Fe Railway and the Illinois State line in Grant County and extending northerly along the Burlington Northern & Santa Fe Railway to the city limit of Prescott in Pierce County, then west along the Prescott city limit to the Minnesota State line.

Central Flyway

Colorado (Central Flyway Portion)

Northern Front Range Area: All areas in Boulder, Larimer, and Weld Counties from the Continental Divide east along the Wyoming border to U.S. 85, south on U.S. 85 to the Adams County line, and all lands in Adams, Arapahoe, Broomfield, Clear Creek, Denver, Douglas, Gilpin, and Jefferson Counties.

North Park Area: Jackson County.

South Park Area: Chaffee, Custer, Fremont, Lake, Park, and Teller Counties.

San Luis Valley Area: All of Alamosa, Conejos, Costilla, and Rio Grande Counties, and those portions of Saguache, Mineral, Hinsdale, Archuleta, and San Juan Counties east of the Continental Divide.

Remainder: Remainder of the Central Flyway portion of Colorado.

Eastern Colorado Late Light Goose Area: That portion of the State east of Interstate Highway 25.

Montana (Central Flyway Portion)

Zone 1: Same as Zone 1 for ducks and coots.

Zone 2: Same as Zone 2 for ducks and coots.

Nebraska

Dark Geese

Niobrara Unit: That area contained within and bounded by the intersection of the Nebraska-South Dakota border and U.S. Hwy 83, south to U.S. Hwy 20, east to NE Hwy 14, north along NE Hwy 14 to NE Hwy 59 and County Road 872, west along County Road 872 to the Knox County Line, north along the Knox County Line to the Nebraska-South Dakota border, west along the Nebraska-South Dakota border to U.S. Hwy 83. Where the Niobrara River forms the boundary, both banks of the river are included in the Niobrara Unit.

Platte River Unit: The area bounded starting at the northernmost intersection of the Interstate Canal at the Nebraska-Wyoming border, south along the Nebraska-Wyoming border to the Nebraska-Colorado border, east and south along the Nebraska-Colorado border to the Nebraska-Kansas border, east along the Nebraska-Kansas border to the Nebraska-Missouri border, north along the Nebraska-Missouri and Nebraska-Iowa borders to the Burt-Washington County line, west along the Burt-Washington County line to U.S. Hwy 75, south to Dodge County Road 4/Washington County Road 4, west to U.S. Hwy 77, south to U.S. Hwy 275, northwest to U.S. Hwy 91, west to NE Hwy 45, north to NE Hwy 32, west to NE Hwy 14, north to NE Hwy 70, west to U.S. Hwy 281, south to NE Hwy 70, west along NE Hwy 70/91 to NE Hwy 11, north to the Holt County Line, west along the northern border of Garfield, Loup, Blaine, and Thomas Counties to the Hooker County Line, south along the Thomas-Hooker County Lines to the McPherson County Line, east along the south border of Thomas County to the Custer County Line, south along the Custer-Logan County lines to NE Hwy 92, west to U.S. Hwy 83, north to NE Hwy 92, west to NE Hwy 61, north to NE Hwy 2, west along NE Hwy 2 to the corner formed by Garden, Grant and Sheridan Counties, west along the north borders of Garden, Morrill, and Scotts Bluff Counties to the intersection with the Interstate Canal, north and west along the Interstate Canal to the intersection with the Nebraska-Wyoming border.

North-Central Unit: Those portions of the State not in the Niobrara and Platte River zones.

Light Geese

Rainwater Basin Light Goose Area:

The area bounded by the junction of NE Hwy 92 and NE Hwy 15, south along NE Hwy 15 to NE Hwy 4, west along NE Hwy 4 to U.S. Hwy 34, west along U.S. Hwy 34 to U.S. Hwy 283, north along U.S. Hwy 283 to U.S. Hwy 30, east along U.S. Hwy 30 to NE Hwy 92, east along NE Hwy 92 to the beginning.

Remainder of State: The remainder of Nebraska.

New Mexico (Central Flyway Portion)

Dark Geese

Middle Rio Grande Valley Unit:

Sierra, Socorro, and Valencia Counties.

Remainder: The remainder of the Central Flyway portion of New Mexico.

North Dakota

Missouri River Canada and Cackling

Goose Zone: The area within and bounded by a line starting where ND Hwy 6 crosses the South Dakota border; then north on ND Hwy 6 to I-94; then west on I-94 to ND Hwy 49; then north on ND Hwy 49 to ND Hwy 200; then west on ND Hwy 200; then north on ND Hwy 8 to the Mercer/McLean County line; then east following the county line until it turns south toward Garrison Dam; then east along a line (including Mallard Island) of Lake Sakakawea to U.S. Hwy 83; then south on U.S. Hwy 83 to ND Hwy 200; then east on ND Hwy 200 to ND Hwy 41; then south on ND Hwy 41 to U.S. Hwy 83; then south on U.S. Hwy 83 to I-94; then east on I-94 to U.S. Hwy 83; then south on U.S. Hwy 83 to the South Dakota border; then west along the South Dakota border to ND Hwy 6.

Western North Dakota Canada and Cackling Goose Zone: Same as the High Plains Unit for ducks, mergansers and coots, excluding the Missouri River Canada Goose Zone.

Rest of State: Remainder of North Dakota.

South Dakota

Early Canada and Cackling Goose Seasons

Special Early Canada and Cackling Goose Unit: The Counties of Campbell, Clark, Codington, Day, Deuel, Grant, Hamlin, Marshall, Roberts, Walworth; that portion of Perkins County west of State Highway 75 and south of State Highway 20; that portion of Dewey County north of Bureau of Indian Affairs Road 8, Bureau of Indian Affairs Road 9, and the section of U.S. Highway 212

east of the Bureau of Indian Affairs Road 8 junction; that portion of Potter County east of U.S. Highway 83; that portion of Sully County east of U.S. Highway 83; portions of Hyde, Buffalo, Brule, and Charles Mix Counties north and east of a line beginning at the Hughes-Hyde County line on State Highway 34, east to Lees Boulevard, southeast to State Highway 34, east 7 miles to 350th Avenue, south to Interstate 90 on 350th Avenue, south and east on State Highway 50 to Geddes, east on 285th Street to U.S. Highway 281, and north on U.S. Highway 281 to the Charles Mix-Douglas County boundary; that portion of Bon Homme County north of State Highway 50; those portions of Yankton and Clay Counties north of a line beginning at the junction of State Highway 50 and 306th Street/County Highway 585 in Bon Homme County, east to U.S. Highway 81, then north on U.S. Highway 81 to 303rd Street, then east on 303rd Street to 444th Avenue, then south on 444th Avenue to 305th Street, then east on 305th Street/Bluff Road to State Highway 19, then south to State Highway 50 and east to the Clay/Union County Line; Aurora, Beadle, Brookings, Brown, Butte, Corson, Davison, Douglas, Edmunds, Faulk, Haakon, Hand, Hanson, Harding, Hutchinson, Jackson, Jerauld, Jones, Kingsbury, Lake, McCook, McPherson, Meade, Mellette, Miner, Moody, Oglala Lakota (formerly Shannon), Sanborn, Spink, Todd, Turner, and Ziebach Counties; and those portions of Minnehaha and Lincoln Counties outside of an area bounded by a line beginning at the junction of the South Dakota-Minnesota State line and Minnehaha County Highway 122 (254th Street) west to its junction with Minnehaha County Highway 149 (464th Avenue), south on Minnehaha County Highway 149 (464th Avenue) to Hartford, then south on Minnehaha County Highway 151 (463rd Avenue) to State Highway 42, east on State Highway 42 to State Highway 17, south on State Highway 17 to its junction with Lincoln County Highway 116 (Klondike Road), and east on Lincoln County Highway 116 (Klondike Road) to the South Dakota-Iowa State line, then north along the South Dakota-Iowa and South Dakota-Minnesota border to the junction of the South Dakota-Minnesota State line and Minnehaha County Highway 122 (254th Street).

Regular Seasons

Unit 1: Same as that for the Special Early Canada and Cackling Goose Unit.

Unit 2: All of South Dakota not included in Unit 1 and Unit 3.

Unit 3: Bennett County.

Texas

Northeast Goose Zone: That portion of Texas lying east and north of a line beginning at the Texas-Oklahoma border at U.S. 81, then continuing south to Bowie and then southeasterly along U.S. 81 and U.S. 287 to I-35W and I-35 to the juncture with I-10 in San Antonio, then east on I-10 to the Texas-Louisiana border.

Southeast Goose Zone: That portion of Texas lying east and south of a line beginning at the International Toll Bridge at Laredo, then continuing north following I-35 to the juncture with I-10 in San Antonio, then easterly along I-10 to the Texas-Louisiana border.

West Goose Zone: The remainder of the State.

Wyoming (Central Flyway Portion)

Dark Geese

Zone G1: Big Horn, Converse, Hot Springs, Natrona, Park, and Washakie Counties.

Zone G1A: Goshen and Platte Counties.

Zone G2: Campbell, Crook, Johnson, Niobrara, Sheridan, and Weston Counties.

Zone G3: Albany and Laramie Counties; and that portion of Carbon County east of the Continental Divide.

Zone G4: Fremont County excluding those portions south or west of the Continental Divide.

Pacific Flyway

Arizona

Same zones as for ducks.

California

Northeastern Zone: That portion of California lying east and north of a line beginning at the intersection of Interstate 5 with the California-Oregon line; south along Interstate 5 to its junction with Walters Lane south of the town of Yreka; west along Walters Lane to its junction with Easy Street; south along Easy Street to the junction with Old Highway 99; south along Old Highway 99 to the point of intersection with Interstate 5 north of the town of Weed; south along Interstate 5 to its junction with Highway 89; east and south along Highway 89 to main street Greenville; north and east to its junction with North Valley Road; south to its junction of Diamond Mountain Road; north and east to its junction with North Arm Road; south and west to the junction of North Valley Road; south to the junction with Arlington Road (A22); west to the junction of Highway 89; south and west to the junction of Highway 70; east on Highway 70 to Highway 395; south and east on

Highway 395 to the point of intersection with the California-Nevada State line; north along the California-Nevada State line to the junction of the California-Nevada-Oregon State lines west along the California-Oregon State line to the point of origin.

Klamath Basin Special Management Area: Beginning at the intersection of Highway 161 and Highway 97; east on Highway 161 to Hill Road; south on Hill Road to N Dike Road West Side; east on N Dike Road West Side until the junction of the Lost River; north on N Dike Road West Side until the Volcanic Legacy Scenic Byway; east on Volcanic Legacy Scenic Byway until N Dike Road East Side; south on the N Dike Road East Side; continue east on N Dike Road East Side to Highway 111; south on Highway 111/Great Northern Road to Highway 120/Highway 124; west on Highway 120/Highway 124 to Hill Road; south on Hill Road until Lairds Camp Road; west on Lairds Camp Road until Willow Creek; west and south on Willow Creek to Red Rock Road; west on Red Rock Road until Meiss Lake Road/Old State Highway; north on Meiss Lake Road/Old State Highway to Highway 97; north on Highway 97 to the point of origin.

Colorado River Zone: Those portions of San Bernardino, Riverside, and Imperial Counties east of a line from the intersection of Highway 95 with the California-Nevada State line; south on Highway 95 through the junction with Highway 40; south on Highway 95 to Vidal Junction; south through the town of Rice to the San Bernardino-Riverside County line on a road known as "Aqueduct Road" also known as Highway 62 in San Bernardino County; southwest on Highway 62 to Desert Center Rice Road; south on Desert Center Rice Road/Highway 177 to the town of Desert Center; east 31 miles on Interstate 10 to its intersection with Wiley Well Road; south on Wiley Well Road to Wiley Well; southeast on Milpitas Wash Road to the Blythe, Brawley, Davis Lake intersections; south on Blythe Ogilby Road also known as County Highway 34 to its intersection with Ogilby Road; south on Ogilby Road to its intersection with Interstate 8; east 7 miles on Interstate 8 to its intersection with the Andrade-Algodones Road/Highway 186; south on Highway 186 to its intersection with the U.S.-Mexico border at Los Algodones, Mexico.

Southern Zone: That portion of southern California (but excluding the Colorado River zone) south and east of a line beginning at the mouth of the Santa Maria River at the Pacific Ocean; east along the Santa Maria River to where it crosses Highway 101-166 near

the City of Santa Maria; north on Highway 101-166; east on Highway 166 to the junction with Highway 99; south on Highway 99 to the junction of Interstate 5; south on Interstate 5 to the crest of the Tehachapi Mountains at Tejon Pass; east and north along the crest of the Tehachapi Mountains to where it intersects Highway 178 at Walker Pass; east on Highway 178 to the junction of Highway 395 at the town of Inyokern; south on Highway 395 to the junction of Highway 58; east on Highway 58 to the junction of Interstate 15; east on Interstate 15 to the junction with Highway 127; north on Highway 127 to the point of intersection with the California-Nevada State line.

Imperial County Special Management Area: The area bounded by a line beginning at Highway 86 and the Navy Test Base Road; south on Highway 86 to the town of Westmoreland; continue through the town of Westmoreland to Route S26; east on Route S26 to Highway 115; north on Highway 115 to Weist Road; north on Weist Road to Flowing Wells Road; northeast on Flowing Wells Road to the Coachella Canal; northwest on the Coachella Canal to Drop 18; a straight line from Drop 18 to Frink Road; south on Frink Road to Highway 111; north on Highway 111 to Niland Marina Road; southwest on Niland Marina Road to the old Imperial County boat ramp and the water line of the Salton Sea; from the water line of the Salton Sea, a straight line across the Salton Sea to the Salinity Control Research Facility and the Navy Test Base Road; southwest on the Navy Test Base Road to the point of beginning.

Balance of State Zone: The remainder of California not included in the Northeastern, Colorado River, and Southern Zones.

North Coast Special Management Area: Del Norte and Humboldt Counties.

Sacramento Valley Special Management Area: That area bounded by a line beginning at Willows south on I-5 to Hahn Road; easterly on Hahn Road and the Grimes-Arbuckle Road to Grimes; northerly on CA 45 to the junction with CA 162; northerly on CA 45/162 to Glenn; and westerly on CA 162 to the point of beginning in Willows.

Colorado (Pacific Flyway Portion)

Same zones as for ducks.

Idaho

Canada and Cackling Geese and Brant

Zone 1: All lands and waters within the Fort Hall Indian Reservation, including private in-holdings; Bannock

County; Bingham County, except that portion within the Blackfoot Reservoir drainage; Caribou County within the Fort Hall Indian Reservation; and Power County east of State Highway 37 and State Highway 39.

Zone 2: Bonneville, Butte, Clark, Fremont, Jefferson, Madison, and Teton Counties.

Zone 3: Ada, Adams, Benewah, Blaine, Boise, Bonner, Boundary, Camas, Canyon, Cassia, Clearwater, Custer, Elmore, Franklin, Gem, Gooding, Idaho, Jerome, Kootenai, Latah, Lemhi, Lewis, Lincoln, Minidoka, Nez Perce, Oneida, Owyhee, Payette, Shoshone, Twin Falls, and Washington Counties; and Power County west of State Highway 37 and State Highway 39.

Zone 4: Bear Lake County; Bingham County within the Blackfoot Reservoir drainage; and Caribou County, except that portion within the Fort Hall Indian Reservation.

Zone 5: Valley County.

White-fronted Geese

Zone 1: All lands and waters within the Fort Hall Indian Reservation, including private in-holdings; Bannock County; Bingham County except that portion within the Blackfoot Reservoir drainage; Caribou County within the Fort Hall Indian Reservation; and Power County east of State Highway 37 and State Highway 39.

Zone 2: Bear Lake, Bonneville, Butte, Clark, Fremont, Jefferson, Madison, and Teton Counties; Bingham County within the Blackfoot Reservoir drainage; and Caribou County except within the Fort Hall Indian Reservation.

Zone 3: Adams, Benewah, Blaine, Bonner, Boundary, Camas, Clearwater, Custer, Franklin, Idaho, Kootenai, Latah, Lemhi, Lewis, Nez Perce, Oneida, and Shoshone Counties; and Power County west of State Highway 37 and State Highway 39.

Zone 4: Ada, Boise, Canyon, Cassia, Elmore, Gem, Gooding, Jerome, Lincoln, Minidoka, Owyhee, Payette, Twin Falls, and Washington Counties.

Zone 5: Valley County.

Light Geese

Zone 1: All lands and waters within the Fort Hall Indian Reservation, including private in-holdings; Bannock County; Bingham County east of the west bank of the Snake River, west of the McTucker boat ramp access road, and east of the American Falls Reservoir bluff, except that portion within the Blackfoot Reservoir drainage; Caribou County within the Fort Hall Indian Reservation; and Power County below the American Falls Reservoir bluff, and within the Fort Hall Indian Reservation.

Zone 2: Franklin and Oneida Counties; Bingham County west of the west bank of the Snake River, east of the McTucker boat ramp access road, and west of the American Falls Reservoir bluff; Power County, except below the American Falls Reservoir bluff and those lands and waters within the Fort Hall Indian Reservation.

Zone 3: Ada, Boise, Canyon, Cassia, Elmore, Gem, Gooding, Jerome, Lincoln, Minidoka, Owyhee, Payette, Twin Falls, and Washington Counties.

Zone 4: Adams, Benewah, Blaine, Bonner, Boundary, Camas, Clearwater, Custer, Idaho, Kootenai, Latah, Lemhi, Lewis, Nez Perce, and Shoshone Counties.

Zone 5: Bear Lake, Bonneville, Butte, Clark, Fremont, Jefferson, Madison, and Teton Counties; Bingham County within the Blackfoot Reservoir drainage; and Caribou County except within the Fort Hall Indian Reservation.

Zone 6: Valley County.

Nevada

Same zones as for ducks.

New Mexico (Pacific Flyway Portion)

North Zone: The Pacific Flyway portion of New Mexico located north of I-40.

South Zone: The Pacific Flyway portion of New Mexico located south of I-40.

Oregon

Northwest Permit Zone: Benton, Clackamas, Clatsop, Columbia, Lane, Lincoln, Linn, Marion, Multnomah, Polk, Tillamook, Washington, and Yamhill Counties.

Tillamook County Management Area: That portion of Tillamook County beginning at the point where Old Woods Road crosses the south shores of Horn Creek, north on Old Woods Road to Sand Lake Road at Woods, north on Sand Lake Road to the intersection with McPhillips Drive, due west (~200 yards) from the intersection to the Pacific coastline, south along the Pacific coastline to a point due west of the western end of Pacific Avenue in Pacific City, east from this point (~250 yards) to Pacific Avenue, east on Pacific Avenue to Brooten Road, south and then east on Brooten Road to Highway 101, north on Highway 101 to Resort Drive, north on Resort Drive to a point due west of the south shores of Horn Creek at its confluence with the Nestucca River, due east (~80 yards) across the Nestucca River to the south shores of Horn Creek, east along the south shores of Horn Creek to the point of beginning.

Southwest Zone: Those portions of Douglas, Coos, and Curry Counties east

of Highway 101, and Josephine and Jackson Counties.

South Coast Zone: Those portions of Douglas, Coos, and Curry Counties west of Highway 101.

Eastern Zone: Baker, Crook, Deschutes, Grant, Harney, Jefferson, Klamath, Lake, Malheur, Union, Wallowa, and Wheeler Counties.

Mid-Columbia Zone: Gilliam, Hood River, Morrow, Sherman, Umatilla, and Wasco Counties.

Utah

East Box Elder County Zone: Boundary begins at the intersection of the eastern boundary of Public Shooting Grounds Waterfowl Management Area and SR-83 (Promontory Road); east along SR-83 to I-15; south on I-15 to the Perry access road; southwest along this road to the Bear River Bird Refuge boundary; west, north, and then east along the refuge boundary until it intersects the Public Shooting Grounds Waterfowl Management Area boundary; east and north along the Public Shooting Grounds Waterfowl Management Area boundary to SR-83.

Wasatch Front Zone: Boundary begins at the Weber-Box Elder County line at I-15; east along Weber County line to U.S.-89; south on U.S.-89 to I-84; east and south on I-84 to I-80; south on I-80 to U.S.-189; south and west on U.S.-189 to the Utah County line; southeast and then west along this line to the Tooele County line; north along the Tooele County line to I-80; east on I-80 to Exit 99; north from Exit 99 along a direct line to the southern tip of Promontory Point and Promontory Road; east and north along this road to the causeway separating Bear River Bay from Ogden Bay; east on this causeway to the southwest corner of Great Salt Lake Mineral Corporations (GSLMC) west impoundment; north and east along GSLMC's west impoundment to the northwest corner of the impoundment; north from this point along a direct line to the southern boundary of Bear River Migratory Bird Refuge; east along this southern boundary to the Perry access road; northeast along this road to I-15; south along I-15 to the Weber-Box Elder County line.

Southern Zone: Boundary includes Beaver, Carbon, Emery, Garfield, Grand, Iron, Juab, Kane, Millard, Piute, San Juan, Sanpete, Sevier, Washington, and Wayne Counties, and that part of Tooele County south of I-80.

Northern Zone: The remainder of Utah not included in the East Box Elder County, Wasatch Front, and Southern Zones.

Washington

Area 1: Skagit and Whatcom Counties, and that portion of Snohomish County west of Interstate 5.

Area 2 Inland (Southwest Permit Zone): Clark, Cowlitz, and Wahkiakum Counties, and that portion of Grays Harbor County east of Highway 101.

Area 2 Coastal (Southwest Permit Zone): Pacific County and that portion of Grays Harbor County west of Highway 101.

Area 3: All areas west of the Pacific Crest Trail and west of the Big White Salmon River that are not included in Areas 1, 2 Coastal, and 2 Inland.

Area 4: Adams, Benton, Chelan, Douglas, Franklin, Grant, Kittitas, Lincoln, Okanogan, Spokane, and Walla Walla Counties.

Area 5: All areas east of the Pacific Crest Trail and east of the Big White Salmon River that are not included in Area 4.

Brant

Pacific Flyway

California

Northern Zone: Del Norte, Humboldt, and Mendocino Counties.

Balance of State Zone: The remainder of the State not included in the Northern Zone.

Washington

Puget Sound Zone: Clallam, Skagit, and Whatcom Counties.

Coastal Zone: Pacific County.

Swans

Central Flyway

South Dakota

Open Area: Aurora, Beadle, Brookings, Brown, Brule, Buffalo, Campbell, Clark, Codington, Davison, Day, Deuel, Edmunds, Faulk, Grant, Hamlin, Hand, Hanson, Hughes, Hyde, Jerauld, Kingsbury, Lake, Marshall, McCook, McPherson, Miner, Minnehaha, Moody, Potter, Roberts, Sanborn, Spink, Sully, and Walworth Counties.

Pacific Flyway

Idaho

Open Area: Benewah, Bonner, Boundary, and Kootenai Counties.

Montana (Pacific Flyway Portion)

Open Area: Cascade, Chouteau, Hill, Liberty, and Toole Counties and those portions of Pondera and Teton Counties lying east of U.S. 287-89.

Nevada

Open Area: Churchill, Lyon, and Pershing Counties.

Utah

Open Area: Those portions of Box Elder, Weber, Davis, Salt Lake, and Toole Counties lying west of I-15, north of I-80, and south of a line beginning from the Forest Street exit to the Bear River National Wildlife Refuge boundary; then north and west along the Bear River National Wildlife Refuge boundary to the farthest west boundary of the Refuge; then west along a line to Promontory Road; then north on Promontory Road to the intersection of SR 83; then north on SR 83 to I-84; then north and west on I-84 to State Hwy 30; then west on State Hwy 30 to the Nevada-Utah State line; then south on the Nevada-Utah State line to I-80.

Doves

Alabama

South Zone: Baldwin, Coffee, Covington, Dale, Escambia, Geneva, Henry, Houston, and Mobile Counties.

North Zone: Remainder of the State.

Florida

Northwest Zone: The Counties of Bay, Calhoun, Escambia, Franklin, Gadsden, Gulf, Holmes, Jackson, Liberty, Okaloosa, Santa Rosa, Walton, Washington, Leon (except that portion north of U.S. 27 and east of State Road 155), Jefferson (south of U.S. 27, west of State Road 59 and north of U.S. 98), and Wakulla (except that portion south of U.S. 98 and east of the St. Marks River).

South Zone: The remainder of the State.

Louisiana

North Zone: That portion of the State north of a line extending east from the Texas border along State Highway 12 to U.S. Highway 190, east along U.S. Highway 190 to Interstate Highway 12, east along Interstate Highway 12 to Interstate Highway 10, then east along Interstate Highway 10 to the Mississippi border.

South Zone: The remainder of the State.

Mississippi

North Zone: That portion of the State north and west of a line extending west from the Alabama State line along U.S. Highway 84 to its junction with State Highway 35, then south along State Highway 35 to the Louisiana State line.

South Zone: The remainder of Mississippi.

Oregon

Zone 1: Benton, Clackamas, Clatsop, Columbia, Coos, Curry, Douglas, Gilliam, Hood River, Jackson, Josephine, Lane, Lincoln, Linn, Marion, Morrow,

Multnomah, Polk, Sherman, Tillamook, Umatilla, Wasco, Washington, and Yamhill, Counties.

Zone 2: The remainder of Oregon not included in Zone 1.

Texas

North Zone: That portion of the State north of a line beginning at the International Bridge south of Fort Hancock; north along FM 1088 to TX 20; west along TX 20 to TX 148; north along TX 148 to I-10 at Fort Hancock; east along I-10 to I-20; northeast along I-20 to I-30 at Fort Worth; northeast along I-30 to the Texas-Arkansas State line.

Central Zone: That portion of the State lying between the North and South Zones.

South Zone: That portion of the State south and west of a line beginning at the International Bridge south of Del Rio, proceeding east on U.S. 90 to State Loop 1604 west of San Antonio; then south, east, and north along Loop 1604 to I-10 east of San Antonio; then east on I-10 to Orange, Texas.

Special White-winged Dove Area: Same as the South Zone.

Band-tailed Pigeons

California

North Zone: Alpine, Butte, Del Norte, Glenn, Humboldt, Lassen, Mendocino, Modoc, Plumas, Shasta, Sierra, Siskiyou, Tehama, and Trinity Counties.

South Zone: The remainder of the State not included in the North Zone.

New Mexico

North Zone: North of a line following U.S. 60 from the Arizona State line east to I-25 at Socorro and then south along I-25 from Socorro to the Texas State line.

South Zone: The remainder of the State not included in the North Zone.

Washington

Western Washington: The State of Washington excluding those portions lying east of the Pacific Crest Trail and east of the Big White Salmon River in Klickitat County.

American Woodcock

New Jersey

North Zone: That portion of the State north of NJ 70.

South Zone: The remainder of the State.

Sandhill Cranes

Mississippi Flyway

Alabama

Open Area: That area north of Interstate 20 from the Georgia State line

to the interchange with Interstate 65, then east of Interstate 65 to the interchange with Interstate 22, then north of Interstate 22 to the Mississippi State line.

Minnesota

Northwest Zone: That portion of the State encompassed by a line extending east from the North Dakota border along U.S. Highway 2 to State Trunk Highway (STH) 32, north along STH 32 to STH 92, east along STH 92 to County State Aid Highway (CSAH) 2 in Polk County, north along CSAH 2 to CSAH 27 in Pennington County, north along CSAH 27 to STH 1, east along STH 1 to CSAH 28 in Pennington County, north along CSAH 28 to CSAH 54 in Marshall County, north along CSAH 54 to CSAH 9 in Roseau County, north along CSAH 9 to STH 11, west along STH 11 to STH 310, and north along STH 310 to the Manitoba border.

Tennessee

Southeast Crane Zone: That portion of the State south of Interstate 40 and east of State Highway 56.

Remainder of State: That portion of Tennessee outside of the Southeast Crane Zone.

Central Flyway

Colorado

Open Area: The Central Flyway portion of the State except the San Luis Valley (Alamosa, Conejos, Costilla, Hinsdale, Mineral, Rio Grande, and Saguache Counties east of the Continental Divide) and North Park (Jackson County).

Kansas

Central Zone: That portion of the State within an area bounded by a line beginning where I-35 crosses the Kansas-Oklahoma border, then north on I-35 to Wichita, then north on I-135 to Salina, then north on U.S. 81 to the Nebraska border, then west along the Kansas/Nebraska border to its intersection with Hwy 283, then south on Hwy 283 to the intersection with Hwy 18/24, then east along Hwy 18 to Hwy 183, then south on Hwy 183 to Route 1, then south on Route 1 to the Oklahoma border, then east along the Kansas/Oklahoma border to where it crosses I-35.

West Zone: That portion of the State west of the western boundary of the Central Zone.

Montana

Regular Season Open Area: The Central Flyway portion of the State except for that area south and west of

Interstate 90, which is closed to sandhill crane hunting.

Special Season Open Area: Carbon County.

New Mexico

Regular-Season Open Area: Chaves, Curry, De Baca, Eddy, Lea, Quay, and Roosevelt Counties.

Special Season Open Areas

Middle Rio Grande Valley Area: The Central Flyway portion of New Mexico in Socorro and Valencia Counties.

Estancia Valley Area: Those portions of Santa Fe, Torrance, and Bernalillo Counties within an area bounded on the west by New Mexico Highway 55 beginning at Mountainair north to NM 337, north to NM 14, north to I-25; on the north by I-25 east to U.S. 285; on the east by U.S. 285 south to U.S. 60; and on the south by U.S. 60 from U.S. 285 west to NM 55 in Mountainair.

Southwest Zone: Area bounded on the south by the New Mexico-Mexico border; on the west by the New Mexico-Arizona border north to Interstate 10; on the north by Interstate 10 east to U.S. 180, north to NM 26, east to NM 27, north to NM 152, and east to Interstate 25; on the east by Interstate 25 south to Interstate 10, west to the Luna County line, and south to the New Mexico-Mexico border.

North Dakota

Area 1: That portion of the State west of U.S. 281.

Area 2: That portion of the State east of U.S. 281.

Oklahoma

Open Area: That portion of the State west of I-35.

South Dakota

Open Area: That portion of the State lying west of a line beginning at the South Dakota-North Dakota border and State Highway 25, south on State Highway 25 to its junction with State Highway 34, east on State Highway 34 to its junction with U.S. Highway 81, then south on U.S. Highway 81 to the South Dakota-Nebraska border.

Texas

Zone A: That portion of Texas lying west of a line beginning at the international toll bridge at Laredo, then northeast along U.S. Highway 81 to its junction with Interstate Highway 35 in Laredo, then north along Interstate Highway 35 to its junction with Interstate Highway 10 in San Antonio, then northwest along Interstate Highway 10 to its junction with U.S. Highway 83 at Junction, then north along U.S. Highway 83 to its junction with U.S.

Highway 62, 16 miles north of Childress, then east along U.S. Highway 62 to the Texas-Oklahoma State line.

Zone B: That portion of Texas lying within boundaries beginning at the junction of U.S. Highway 81 and the Texas-Oklahoma State line, then southeast along U.S. Highway 81 to its junction with U.S. Highway 287 in Montague County, then southeast along U.S. Highway 287 to its junction with Interstate Highway 35W in Fort Worth, then southwest along Interstate Highway 35 to its junction with Interstate Highway 10 in San Antonio, then northwest along Interstate Highway 10 to its junction with U.S. Highway 83 in the town of Junction, then north along U.S. Highway 83 to its junction with U.S. Highway 62, 16 miles north of Childress, then east along U.S. Highway 62 to the Texas-Oklahoma State line, then south along the Texas-Oklahoma State line to the south bank of the Red River, then eastward along the vegetation line on the south bank of the Red River to U.S. Highway 81.

Zone C: The remainder of the State, except for the closed areas.

Closed areas:

A. That portion of the State lying east and north of a line beginning at the junction of U.S. Highway 81 and the Texas-Oklahoma State line, then southeast along U.S. Highway 81 to its junction with U.S. Highway 287 in Montague County, then southeast along U.S. Highway 287 to its junction with I-35W in Fort Worth, then southwest along I-35 to its junction with U.S. Highway 290 East in Austin, then east along U.S. Highway 290 to its junction with Interstate Loop 610 in Harris County, then south and east along Interstate Loop 610 to its junction with Interstate Highway 45 in Houston, then south on Interstate Highway 45 to State Highway 342, then to the shore of the Gulf of Mexico, and then north and east along the shore of the Gulf of Mexico to the Texas-Louisiana State line.

B. That portion of the State lying within the boundaries of a line beginning at the Kleberg-Nueces County line and the shore of the Gulf of Mexico, then west along the County line to Park Road 22 in Nueces County, then north and west along Park Road 22 to its junction with State Highway 358 in Corpus Christi, then west and north along State Highway 358 to its junction with State Highway 286, then north along State Highway 286 to its junction with Interstate Highway 37, then east along Interstate Highway 37 to its junction with U.S. Highway 181, then north and west along U.S. Highway 181 to its junction with U.S. Highway 77 in Sinton, then north and east along U.S.

Highway 77 to its junction with U.S. Highway 87 in Victoria, then south and east along U.S. Highway 87 to its junction with State Highway 35 at Port Lavaca, then north and east along State Highway 35 to the south end of the Lavaca Bay Causeway, then south and east along the shore of Lavaca Bay to its junction with the Port Lavaca Ship Channel, then south and east along the Lavaca Bay Ship Channel to the Gulf of Mexico, and then south and west along the shore of the Gulf of Mexico to the Kleberg-Nueces County line.

Wyoming

Area 7: Campbell, Converse, Crook, Goshen, Laramie, Niobrara, Platte, and Weston Counties.

Area 4: All lands within the Bureau of Reclamation's Riverton and Boysen Unit boundaries; those lands within Boysen State Park south of Cottonwood Creek, west of Boysen Reservoir, and south of U.S. Highway 20-26; and all non-Indian owned fee title lands within the exterior boundaries of the Wind River Reservation, excluding those lands within Hot Springs County.

Area 6: Big Horn, Hot Springs, Park, and Washakie Counties.

Area 8: Johnson, Natrona, and Sheridan Counties.

Pacific Flyway

Arizona

Zone 1: Beginning at the junction of the New Mexico State line and U.S. Hwy 80; south along the State line to the U.S.-Mexico border; west along the border to the San Pedro River; north along the San Pedro River to the junction with Arizona Hwy 77; northerly along Arizona Hwy 77 to the Gila River; northeast along the Gila River to the San Carlos Indian Reservation boundary; south then east and north along the reservation boundary to U.S. Hwy 70; southeast on U.S. Hwy 70 to U.S. Hwy 191; south on U.S. Hwy 191 to the 352 exit on I-10; east on I-10 to Bowie-Apache Pass Road; southerly on the Bowie-Apache Pass Road to Arizona Hwy 186; southeasterly on Arizona Hwy 186 to Arizona Hwy 181; south on Arizona Hwy 181 to the West Turkey Creek-Kuykendall cutoff road; southerly on the Kuykendall cutoff road to Rucker Canyon Road; easterly on Rucker Canyon Road to the Tex Canyon Road; southerly on Tex Canyon Road to U.S. Hwy 80; northeast on U.S. Hwy 80 to the New Mexico State line.

Zone 2: Beginning at I-10 and the New Mexico State line; north along the State line to Arizona Hwy 78; southwest on Arizona Hwy 78 to U.S. Hwy 191; northwest on U.S. Hwy 191 to Clifton;

westerly on the Lower Eagle Creek Road (Pump Station Road) to Eagle Creek; northerly along Eagle Creek to the San Carlos Indian Reservation boundary; southerly and west along the reservation boundary to U.S. Hwy 70; southeast on U.S. Hwy 70 to U.S. Hwy 191; south on U.S. Hwy 191 to I-10; easterly on I-10 to the New Mexico State line.

Zone 3: Beginning on I-10 at the New Mexico State line; westerly on I-10 to the Bowie-Apache Pass Road; southerly on the Bowie-Apache Pass Road to AZ Hwy 186; southeast on AZ Hwy 186 to AZ Hwy 181; south on AZ Hwy 181 to the West Turkey Creek-Kuykendall cutoff road; southerly on the Kuykendall cutoff road to Rucker Canyon Road; easterly on the Rucker Canyon Road to Tex Canyon Road; southerly on Tex Canyon Road to U.S. Hwy 80; northeast on U.S. Hwy 80 to the New Mexico State line; north along the State line to I-10.

Idaho

Area 1: All of Bear Lake County and all of Caribou County except that portion lying within the Grays Lake Basin.

Area 2: All of Teton County except that portion lying west of State Highway 33 and south of Packsaddle Road (West 400 North) and north of the North Cedron Road (West 600 South) and east of the west bank of the Teton River.

Area 3: All of Fremont County except the Chester Wetlands Wildlife Management Area.

Area 4: All of Jefferson County.

Area 5: All of Bannock County east of Interstate 15 and south of U.S. Highway 30; and all of Franklin County.

Area 6: That portion of Oneida County within the boundary beginning at the intersection of the Idaho-Utah border and Old Highway 191, then north on Old Highway 191 to 1500 S, then west on 1500 S to Highway 38, then west on Highway 38 to 5400 W, then south on 5400 W to Pocatello Valley Road, then west and south on Pocatello Valley Road to 10000 W, then south on 10000 W to the Idaho-Utah border, then east along the Idaho-Utah border to the beginning point.

Montana

Zone 1: Those portions of Deer Lodge County lying within the following described boundary: Beginning at the intersection of I-90 and Highway 273, then westerly along Highway 273 to the junction of Highway 1, then southeast along said highway to Highway 275 at Opportunity, then east along said highway to East Side County road, then north along said road to Perkins Lane, then west on said lane to I-90, then

north on said interstate to the junction of Highway 273, the point of beginning. Except for sections 13 and 24, T5N, R10W; and Warm Springs Pond number 3.

Zone 2: That portion of the Pacific Flyway, located in Powell County lying within the following described boundary: beginning at the junction of State Routes 141 and 200, then west along Route 200 to its intersection with the Blackfoot River at Russell Gates Fishing Access Site (Powell-Missoula County line), then southeast along said river to its intersection with the Ovando-Helmville Road (County Road 104) at Cedar Meadows Fishing Access Site, then south and east along said road to its junction with State Route 141, then north along said route to its junction with State Route 200, the point of beginning.

Zone 3: Beaverhead, Gallatin, Jefferson, and Madison Counties.

Zone 4: Broadwater County.

Zone 5: Cascade and Teton Counties.

Utah

Cache County: Cache County.

East Box Elder County: That portion of Box Elder County beginning on the Utah-Idaho State line at the Box Elder-Cache County line; west on the State line to the Pocatello Valley County Road; south on the Pocatello Valley County Road to I-15; southeast on I-15 to SR-83; south on SR-83 to Lamp Junction; west and south on the Promontory Point County Road to the tip of Promontory Point; south from Promontory Point to the Box Elder-Weber County line; east on the Box Elder-Weber County line to the Box Elder-Cache County line; north on the Box Elder-Cache County line to the Utah-Idaho State line.

Rich County: Rich County.

Uintah County: Uintah and Duchesne Counties.

Wyoming

Area 1: All of the Bear River and Ham's Fork River drainages in Lincoln County.

Area 2: All of the Salt River drainage in Lincoln County south of the McCoy Creek Road.

Area 3: All lands within the Bureau of Reclamation's Eden Project in Sweetwater County.

Area 5: Uinta County.

All Migratory Game Birds in Alaska

North Zone: State Game Management Units 11-13 and 17-26.

Gulf Coast Zone: State Game Management Units 5-7, 9, 14-16, and 10 (Unimak Island only).

Southeast Zone: State Game Management Units 1-4.

Pribilof and Aleutian Islands Zone: State Game Management Unit 10 (except Unimak Island).

Kodiak Zone: State Game Management Unit 8.

All Migratory Game Birds in the Virgin Islands

Ruth Cay Closure Area: The island of Ruth Cay, just south of St. Croix.

All Migratory Game Birds in Puerto Rico

Municipality of Culebra Closure Area: All of the municipality of Culebra.

Desecheo Island Closure Area: All of Desecheo Island.

Mona Island Closure Area: All of Mona Island.

El Verde Closure Area: Those areas of the municipalities of Rio Grande and Loiza delineated as follows: (1) All lands between Routes 956 on the west and 186 on the east, from Route 3 on the north to the juncture of Routes 956 and 186 (Km 13.2) in the south; (2) all lands between Routes 186 and 966 from the juncture of 186 and 966 on the north, to the Caribbean National Forest Boundary on the south; (3) all lands lying west of Route 186 for 1 kilometer from the juncture of Routes 186 and 956 south to Km 6 on Route 186; (4) all lands within Km 14 and Km 6 on the west and the Caribbean National Forest Boundary on the east; and (5) all lands within the Caribbean National Forest Boundary whether private or public.

Cidra Municipality and adjacent areas: All of Cidra Municipality and portions of Aguas Buenas, Caguas, Cayey, and Comerio Municipalities as encompassed within the following boundary: Beginning on Highway 172 as it leaves the municipality of Cidra on the west edge, north to Highway 156, east on Highway 156 to Highway 1, south on Highway 1 to Highway 765, south on Highway 765 to Highway 763, south on Highway 763 to the Rio Guavate, west along Rio Guavate to Highway 1, southwest on Highway 1 to Highway 14, west on Highway 14 to Highway 729, north on Highway 729 to Cidra Municipality boundary to the point of the beginning.

List of Subjects in 50 CFR Part 20

Exports, Hunting, Imports, Reporting and recordkeeping requirements, Transportation, Wildlife.

Shannon A. Estenoz,

Senior Advisor to the Secretary, Exercising the Delegated Authority of the Assistant Secretary for Fish and Wildlife and Parks.

Proposed Regulation Promulgation

Accordingly, we propose to amend part 20, subpart N of title 50 of the Code of Federal Regulations as follows:

PART 20—MIGRATORY BIRD HUNTING

■ 1. The authority citation for part 20 continues to read as follows:

Authority: 16 U.S.C. 703–712 and 16 U.S.C. 742a–j.

■ 2. In § 20.153, revise paragraph (a) to read as follows:

§ 20.153 Regulations committee.

(a) *Notice of meetings.* Notice of each meeting of the Regulations Committee to be attended by any person outside the Department of the Interior will be published in the **Federal Register** or online on the U.S. Fish and Wildlife Service’s Migratory Bird Program website at least 2 weeks before the meeting. The notice will state the time, place, and general subject(s) of the meeting, as well as the extent of public involvement.

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■ 3. In § 20.154, revise paragraph (a) to read as follows:

§ 20.154 Flyway Councils.

(a) *Notice of meetings.* Notice of each meeting of a Flyway Council to be attended by any official of the Department will be published in the **Federal Register** or online on the U.S. Fish and Wildlife Service’s Migratory Bird Program website at least 2 weeks before the meeting or as soon as practicable after the Department of the Interior learns of the meeting. The notice will state the time, place, and general subject(s) of the meeting.

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Part III

Department of Commerce

National Oceanic and Atmospheric Administration

Takes of Marine Mammals Incidental To Specified Activities; Taking Marine Mammals Incidental to West Dock Facility Construction Activities Associated With the Alaska LNG Project in Prudhoe Bay, Alaska; Notice

DEPARTMENT OF COMMERCE**National Oceanic and Atmospheric Administration**

[RTID 0648-XA418]

Takes of Marine Mammals Incidental To Specified Activities; Taking Marine Mammals Incidental to West Dock Facility Construction Activities Associated With the Alaska LNG Project in Prudhoe Bay, Alaska

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

ACTION: Notice; issuance of an incidental harassment authorization.

SUMMARY: In accordance with the regulations implementing the Marine Mammal Protection Act (MMPA) as amended, notification is hereby given that NMFS has issued an incidental harassment authorization (IHA) to the Alaska Gasline Development Corporation (AGDC) to incidentally harass, by Level A and Level B harassment, marine mammals during a particular activity (West Dock facility construction) associated with construction of the Alaska Liquefied Natural Gas (AK LNG) Project in Prudhoe Bay, Alaska.

DATES: This Authorization is applicable from July 1, 2023 through June 30, 2024.

FOR FURTHER INFORMATION CONTACT: Leah Davis, Office of Protected Resources, NMFS, (301) 427-8401. Electronic copies of the application and supporting documents, as well as a list of the references cited in this document, may be obtained online at <https://www.fisheries.noaa.gov/permit/incidental-take-authorizations-under-marine-mammal-protection-act>. In case of problems accessing these documents, please call the contact listed above.

SUPPLEMENTARY INFORMATION:**Background**

The MMPA prohibits the “take” of marine mammals, with certain exceptions. Sections 101(a)(5)(A) and (D) of the MMPA (16 U.S.C. 1361 *et seq.*) direct the Secretary of Commerce (as delegated to NMFS) to allow, upon request, the incidental, but not intentional, taking of small numbers of marine mammals by U.S. citizens who engage in a specified activity (other than commercial fishing) within a specified geographical region if certain findings are made and either regulations are issued or, if the taking is limited to harassment, a notice of a proposed incidental take authorization may be provided to the public for review.

Authorization for incidental takings shall be granted if NMFS finds that the taking will have a negligible impact on the species or stock(s) and will not have an unmitigable adverse impact on the availability of the species or stock(s) for taking for subsistence uses (where relevant). Further, NMFS must prescribe the permissible methods of taking and other “means of effecting the least practicable adverse impact” on the affected species or stocks and their habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance, and on the availability of the species or stocks for taking for certain subsistence uses (referred to in shorthand as “mitigation”); and requirements pertaining to the mitigation, monitoring and reporting of the takings are set forth.

The definitions of all applicable MMPA statutory terms cited above are included in the relevant sections below.

Summary of Request

On March 28, 2019, NMFS received a request from AGDC for an IHA to take marine mammals incidental to construction activities in Prudhoe Bay, Alaska. AGDC submitted revised applications on May 29, 2019; September 16, 2019; October 31, 2019; February 7, 2020; and February 25, 2020. The application was deemed adequate and complete on May 21, 2020. AGDC’s request is for take of a small number of six species of marine mammals by harassment. Neither AGDC nor NMFS expects serious injury or mortality to result from this activity and, therefore, an IHA is appropriate.

This IHA authorizes incidental take, for one year, for one discrete project (West Dock facility construction). This project is part of the larger AK LNG project for which AGDC has also requested a five-year Letter of Authorization (LOA) (84 FR 30991, June 28, 2019) for incidental take associated with project activities in Cook Inlet, Alaska. The larger project involves a pipeline that will span approximately 807 miles (mi) (1,290 kilometers (km)) from a gas treatment facility on Alaska’s North Slope, which holds 35 trillion cubic feet (ft³) of proven gas reserves, to a liquefaction and export facility in southcentral Alaska.

Description of the Specified Activity

AGDC plans to construct an integrated liquefied natural gas (LNG) project with interdependent facilities to liquefy supplies of natural gas from Alaska, in particular from the Point Thomson Unit (PTU) and Prudhoe Bay Unit (PBU) production fields on the Alaska North Slope (North Slope), for export in

foreign commerce and for in-state deliveries of natural gas. AGDC plans to construct an AK LNG Gas Treatment Plant (GTP), which they would construct with large, pre-fabricated modules that that can only be transported to the North Slope with barges (sealifts).

AGDC is proposing to modify the existing West Dock causeway and associated dock heads in Prudhoe Bay, Alaska in order to facilitate offloading modular construction components and transporting them to the GTP construction site. Vibratory and impact pile driving associated with the work at West Dock would introduce underwater sound that may result in take by Level A and Level B harassment of marine mammals in Prudhoe Bay, Alaska. AGDC proposes to conduct pile driving up to 24 hours per day. Construction is expected to occur on approximately 123 days from July through October during the open water (*i.e.*, ice-free) season.

A detailed description of the planned construction project is provided in the **Federal Register** notice for the proposed IHA (85 FR 43382; July 16, 2020). Since that time, no changes have been made to the planned construction activities other than AGDC’s planned construction timeframe, which has been shifted to July 1, 2023 to June 30, 2024. Therefore, a detailed description is not provided here. Please refer to that **Federal Register** notice for the description of the specific activity.

Comments and Responses

A notice of NMFS’s proposal to issue an IHA to AGDC was published in the **Federal Register** on July 16, 2020 (85 FR 43382). That notice described, in detail, AGDC’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 substantive comments from the Marine Mammal Commission, the Alaska Eskimo Whaling Commission (AEWC), the Center for Biological Diversity (CBD), the Pipeliners Union 798 United Association and its members, and a member of the general public. NMFS reopened the public comment period, at the request of the AEWC, from September 16, 2020 to November 16, 2020 (85 FR 57836; September 16, 2020). During the reopened comment period, NMFS received letters from the AEWC and the North Slope Borough (NSB), an additional reference from the CBD, and another comment from a member of the public. Two commenters stated that they believe that NMFS should not authorize marine mammal take for the AK LNG project in Prudhoe

Bay, and another commenter and its organization's members expressed general support for the project. Our responses to the substantive comments received are provided here, and the comments have been posted online at: <https://www.fisheries.noaa.gov/action/incidental-take-authorization-alaska-gasline-development-corporation-liquefied-natural-gas-0>. Please see the commenters' letters for full detail regarding justification for their recommendations.

Comment 1: During the initial public comment period on the proposed IHA, NMFS received a request from the Alaska Eskimo Whaling Commission (AEWC) requesting a 60-day extension of the comment period. The request indicated that the AEWC required more time to conduct their review and provide comments.

The AEWC reiterated that (1) the Whaling Captains, community members, and the thousands of Alaska Natives who depend on the success of their harvests for their food security will be directly affected by any adverse effects from this project, and that (2) they have a direct stake in ensuring that this project is properly and thoroughly reviewed. Specifically, they noted that in addition to other challenges to reviewing the proposed IHA within the 30 days initially provided, the summer months are a time when many community members engage in a wide range of subsistence activities.

Response: Given the factors listed by AEWC in its request, and the fact that the specified activity the IHA addresses was not scheduled to start until 2022 (now 2023), NMFS elected to provide additional time for public comment.

Due to the timing of the request, it was not feasible to publish a notice in the **Federal Register** announcing a comment period extension prior to the close of the initial public comment period. Therefore, NMFS reopened the public comment period from September 16, 2020 until November 16, 2020 to receive additional information and comments (85 FR 57836; September 16, 2020). NMFS fully considered comments and information submitted during both comment periods in the preparation of this final IHA, and responses are included in this section.

Comment 2: A commenter stated that NMFS should address in a substantive manner the apparent rejection of the Peer Review Panel's (PRP) recommendations and comments.

Response: NMFS fully considered the PRP's comments, as described in the *Monitoring Plan Peer Review* section of this notice and the notice of the proposed IHA, and NMFS adopted some

of the panel's recommendations. The final IHA includes additional recommendations by the PRP that were not included in the proposed IHA: the requirement for AGDC to conduct sound source verification (SSV) and to use three hydrophones in its passive acoustic monitoring (PAM) setup during the open water period, rather than one hydrophone required by the proposed IHA. For a full discussion of the panel's comments, and rationale for which recommendations were and were not adopted, please see the *Monitoring Plan Peer Review* section of this notice.

Comment 3: Commenters expressed concern regarding the proposed take by Level A harassment of ringed and bearded seals, and take by Level A harassment of bowhead whales, which AGDC requested in its application. The commenters stated that an IHA should not authorize take by Level A harassment, and rather take by Level A harassment should only be authorized through a rulemaking process and subsequent LOA(s). One commenter stated that NMFS must do a better job to explain how it reached its conclusions that there will be no Level A harassment take and how AGDC will be able to ensure that no Level A harassment take occurs if the mitigation and monitoring is insufficient.

Response: Section 101(a)(5)(D) of the MMPA and the associated implementing regulations allow for the authorization of incidental take by harassment (including both Level A and Level B harassment) through an IHA. However, for all incidental take authorizations, NMFS aims to avoid or minimize take by Level A harassment for all species, and, in this case, particularly bowhead whale given its importance to subsistence communities.

As described in the *Take Calculation and Estimation* section of this notice, NMFS does not expect take by Level A harassment of bowhead whale to occur due to the shallow water depth in the project area. Additionally, no bowhead whales have been observed during Aerial Surveys of Arctic Marine Mammals (ASAMM) surveys in Block 1a (which encompasses the Level A harassment zone) since Block 1a surveys began in 2016. Further, shutdown requirements within designated shutdown zones for low-frequency (LF) cetaceans (which include bowhead whales) are expected to prevent take by Level A harassment given the large size and visibility of bowhead whales. Additionally, Level A harassment zones are calculated with an associated duration component based on the amount of pile driving expected to occur within one day. Therefore, a

marine mammal is not taken by Level A harassment instantaneously when it enters the Level A harassment zone, and given the shallow depths, even if a bowhead did enter the Level A harassment zone, we would not expect it to remain within the zone for a long enough period to incur permanent threshold shift (PTS).

Take by Level A harassment of ice seals is authorized through this IHA. NMFS recognizes the importance of these animals to subsistence communities also and has worked with AGDC to minimize expected take of ice seals by Level A harassment to the extent practicable. As noted in the Negligible Impact Analysis and Determination section, we expect that the relatively small number of Level A harassment exposures, for seals only, will result only in slight PTS within the lower frequencies associated with pile driving.

Comment 4: A commenter stated that there is no information in the record demonstrating that pile driving in the mid-Beaufort Sea, even in shallow water, will not disturb the fall bowhead whale migration as it travels west past the project area toward Utqiagvik. The commenter described the 2019 and 2020 Utqiagvik hunts. Please refer to the AEWC's comment letter, submitted during the comment extension, for additional detail on the 2019 and 2020 Utqiagvik hunts, beyond what is provided below.

The commenter stated that the early fall harvest in 2020 and the variation in harvest outcomes between 2019 and 2020 are only two examples of the unprecedented changes we are seeing in our marine ecosystem, including in the behavior of our resources. Given the unpredictability of our times, we are being forced to adapt our hunting practices and to become more flexible in our planning. As a result, harvesting periods and established time-area closures may vary in coming years.

The commenter stated that as the changes we are experiencing continue to unfold, it is essential that everyone—hunters, developers, and regulators— increase our vigilance in monitoring changes to the whales' migratory behavior.

The commenter stated that we do not know whether, given the whales' sensitivity to anthropogenic sounds and vibrations in the ocean, there is potential for deflection of the migration and other behavioral changes as the migration passes the proposed project. Unfortunately, based on the current record, the AEWC and NMFS cannot reasonably conclude that the construction activity will not have an

impact on our critical fall bowhead whale subsistence harvest at Utqiagvik.

In its initial letter, the commenter stated that suspension of pile driving activities until Utqiagvik completes its fall harvest would help to ensure adequate mitigation of impacts from that sound source, and the commenter initially recommended such a shutdown. However, in a second letter, the commenter stated that it recognizes that because the timing of the migration and completion of the harvest are difficult to predict, a shutdown throughout this period could be prohibitive from the perspective of the operator. Therefore, because the risk of interference will be borne by the Utqiagvik Whaling Captains should the project go forward, the AEWC requests that NMFS direct AGDC to meet directly with the Whaling Captains Associations and to continue meeting with the AEWC. The AEWC also requests that NMFS reiterate the requirement for signing the Conflict Avoidance Agreement (CAA) as the Federal Energy Regulatory Commission (FERC) has done in its Order Granting Authorization of the Project.

Response: Utqiagvik is approximately 320 km (200 mi) from West Dock, and farther north and disruption of bowhead whale behavioral patterns as a result of AGDC's pile driving is not expected to impact individuals in the vicinity of Utqiagvik. As described in the Estimated Take section, only a small number of bowhead whales (a maximum of 110, less than 0.65% of the stock) are expected to be disturbed by the construction activities, and even if some subset of these individuals deflected farther offshore near the project site, it is reasonable to predict that most individuals would likely resume a more typical migration path by the time they reach the Utqiagvik hunting area and, therefore, significant impacts to the Utqiagvik hunt would not be expected. Further, as noted by the commenter, it is impracticable for AGDC to cease pile driving during the Utqiagvik whaling season, given the relatively short open water work window, the potential long duration of the whaling season, and the requirement to cease pile driving during the Nuiqsut whaling season, which occurs closer to the project site. As such, NMFS is not requiring AGDC to cease pile driving during the Utqiagvik whaling season. However, AGDC is required to continue coordinating with subsistence groups, including the Whaling Captains Associations (Utqiagvik, Nuiqsut, and Kaktovik), as described in the Plan of Cooperation (POC). This additional coordination may result in additional

mitigation measures, if agreed upon by the communities and AGDC. AGDC will also conduct an SSV to determine sound source levels and propagation for the construction noise, which will further inform and refine our understanding of the distance to which the construction noise is expected to propagate and the likely impact on marine mammals (including bowhead whales).

Regarding the CAA, AGDC is required by FERC to enter the CAA for the construction season. NMFS supports and encourages participation of applicants in the CAA process. Where measures likely to be identified through the CAA process are necessary to ensure an unmitigable adverse impact on subsistence uses or that the activities have the least practicable adverse impact on the affected species or stocks and their habitat (paying particular attention to the availability of the species or stock for taking for certain subsistence uses), similar or identical measures would be appropriately included in the IHA; however, NMFS does not require applicants to sign the CAA.

Comment 5: Commenters suggested that NMFS require AGDC to use sound attenuation such as a bubble curtain. In a related comment, a commenter stated that NMFS thoughtlessly adopted the applicant's justification that "bubble curtains would be very difficult to deploy, and may not result in significant sound reduction." The commenter stated that while NMFS could and should require bubble curtains to reduce pile driving noise, there are also other technologies available to reduce the noise from pile driving. For example, the commenter stated that NMFS should consider the effectiveness of pile caps, dewatered cofferdams, and other physical barrier mitigation. The PRP recommended consideration of bubble curtains, noise mitigation screens, and hydro sound dampers (nets with air-filled or foam-filled elastic balloons) (Bellmann 2014; Elmer and Savery 2014) to decrease the size of the Level A and Level B harassment zones. In a related comment, the Commission suggested consideration of other noise attenuation devices, but did not suggest specific devices. Rather, it recommended that NMFS determine whether any type of sound attenuation device could be effective in the shallow-water conditions of the proposed project site.

In another related comment, a commenter stated that the benefit of sound attenuation is reducing risk of injury to seals and whales, diminishing the amount of sound that would propagate to the area of the main

bowhead migration, and decreasing the size of Level A and Level B harassment zones. Reduction in the size of these zones would achieve more realistically observable zones (see PRP comments). Therefore, observers can do a better job of implementing mitigation measures to avoid Level A harassment takes more efficiently and realistically observe the entire Level B harassment zone to estimate actual takes. The commenter stated that if NMFS does not require sound attenuation devices, it should require AGDC to strengthen their proposed monitoring plan by requiring that observers be able to see most of the Level A and B monitoring zones during the open water period.

Response: NMFS fully considered whether requiring the use of bubble curtains or other sound attenuation methods was appropriate for this IHA, and included additional explanation of these considerations below. Where conditions are appropriate, bubble curtains, cofferdams, and pile caps are generally the most common noise attenuation methods used in construction projects. The West Dock area is an industrial location with existing piles and dock structures. Conditions in the project area mean that the common practice of using bubble curtains for attenuation is not appropriate, as the water is shallow and therefore sound source level reductions are likely to be minimal (Caltrans, 2020), effective deployment of a bubble curtain system is logistically challenging in shallow water, and there is potential for sea ice. Sound attenuation devices have not been used for pile driving in this area during past projects.

NMFS notes that in some instances during the project, such as during the gravel pouring at the barge bridge abutments, sheet piles will act as a cofferdam. NMFS considered this noise isolation in its effects analysis, but did not refer to the sheet piles as a cofferdam or mitigation measure, as they are a planned construction component, rather than an additional mitigation measure.

Regarding the noise mitigation screens and hydro sound dampeners suggested by the PRP, as stated previously, the window for working in this area is extremely short, and construction will occur on a tight schedule in an effort to complete construction during one season. Given the short construction schedule, experimentation with less-common sound attenuation methods, such as mitigation screens and hydro sound dampeners, is not practicable.

AGDC does not have a confirmed contractor and therefore cannot guarantee that a less common sound attenuation device will be available for use, as well as the tight construction schedule, it is impracticable to require AGDC to implement any other less-common sound attenuation methods. Regarding the recommended use of pile caps, AGDC has not yet selected a contractor, and therefore is unable to guarantee that a contractor will be able to implement certain methods, such as pile caps. Further, available data does not show that pile caps are effective for noise reduction (Caltrans, 2020).

As stated in the *Ensonified Area* section of this notice, AGDC and NMFS modeled the Level A and Level B harassment zones using practical spreading. Given the shallow water in the project area, we expect that the Level A and Level B harassment zones included in the IHA are conservative. Additionally, AGDC intends to conduct SSV to verify sound source levels, propagation, and the Level A and Level B harassment zone sizes. NMFS intends to update the Level A and Level B harassment zone sizes with the verified zone sizes and potentially the associated shutdown zones, as appropriate. It is likely that the SSV will reflect smaller zone sizes, which would therefore be easier for protected species observers (PSOs) to observe a larger portion of the zones.

Please see Comment 23 for a response to the recommendation to require AGDC to strengthen their proposed monitoring plan by requiring that observers be able to see most of the Level A and Level B harassment zones during the open water season.

Comment 6: Commenters, and the Commission, noted that the PRP recommended that AGDC incorporate sound attenuation, such as bubble curtains, during pile driving. The commenters stated that NMFS did not address this recommendation by the PRP in the notice of the proposed IHA, and recommended that NMFS address it in the notice of the final IHA. One commenter further stated that NMFS has not adequately responded to the PRP's findings that many of the applicant's objectives cannot be reasonably obtained.

Response: NMFS did not respond to the sound attenuation recommendation in the *Monitoring Plan Peer Review* section of the proposed or final IHA, as mitigation measures are beyond the scope of the PRP's charge, and NMFS did not find a response in that section to be appropriate. Rather, NMFS has responded to the PRP's recommendation, and that of public

commenters, in its responses to Comment 5 in this section. NMFS provided an explanation of why it adopted certain recommendations from the PRP, and why it did not recommend others in the *Monitoring Plan Peer Review* section of the notice of the proposed IHA, and this notice. However, NMFS has updated that discussion given that AGDC has since determined that SSV and the use of additional hydrophones in its PAM setup are practicable. Please see the *Monitoring Plan Peer Review* section for additional detail.

Comment 7: A commenter stated that the latest POC at the time of publication of the proposed IHA primarily focuses on past activities and outlines sporadic meetings over five years, during which time the project has gone through multiple changes in leadership. Often it is missing important details or includes a PowerPoint presentation but no indication of the discussion. Contrary to its express purpose, this POC does not allow for evaluation of the quality of information provided to our hunters and residents; offer an account of any concerns that might have been raised by our communities in the public meetings; or provide for a path forward to address local concerns. For example, these preliminary meetings would have been the place to raise the issue of Level A harassment takes, to discuss any concerns related to potential impacts to Utqiagvik, and to discuss the contingency plans in the ice-covered season. In short, this POC does not demonstrate that the applicant has engaged in consultation with local communities that is meaningful or honorable.

Further, the POC is lacking details in Section 2 on ongoing communications. It states "Alaska LNG will develop a Communication Plan and will implement this plan before initiating construction or present." Yet it does not outline or delineate a plan on moving forward.

Response: AGDC's initial meetings with subsistence groups were part of the National Environmental Policy Act (NEPA) Environmental Impact Statement (EIS) public scoping process, so AGDC provided high-level information on the overall project and sought input, as detailed information regarding marine mammal impacts was not available at the time. AGDC has continued to meet with subsistence groups and has discussed more detailed project information in these more recent meetings.

AGDC has updated the POC to include the information that the commenter stated was initially lacking.

Regarding a path forward to address local concerns, AGDC will, in conjunction with NMFS, AEWC, and the Whaling Captains Associations from Utqiagvik, Nuiqsut, and Kaktovik, develop and agree with these groups to a Communications Plan. The plan will identify the most effective way to communicate with local subsistence users and the Whaling Captains' Associations. It will be posted on the project website and sent to the organizations for feedback before being finalized. The goals along with the timeline, tools, and process for developing a robust Communications Plan are provided in Appendix C of the revised POC, available at <https://www.fisheries.noaa.gov/action/incidental-take-authorization-alaska-gasline-development-corporation-liquefied-natural-gas-0>.

Comment 8: A commenter recommended that NMFS direct AGDC to meet directly with the Whaling Captains Associations to collaboratively develop appropriate means of mitigating potential impacts from the pile driving activity on the fall harvest at Utqiagvik and to continue meeting with the AEWC.

Response: The final IHA includes a requirement that AGDC must conduct the coordination with subsistence communities as described in the POC. The POC indicates that AGDC will meet with the Whaling Captains Associations (Utqiagvik, Nuiqsut, and Kaktovik), and continue to meet with the AEWC. AGDC will continue to work with NMFS, AEWC, and the Whaling Captains Associations from Utqiagvik, Nuiqsut, and Kaktovik, develop and agree to a Communications Plan. The goals along with the timeline, tools, and process for developing a robust Communications Plan are provided in Appendix C of the revised POC, available at <https://www.fisheries.noaa.gov/action/incidental-take-authorization-alaska-gasline-development-corporation-liquefied-natural-gas-0>.

Comment 9: The Commission recommended that NMFS require AGDC to (1) meet with ice seal subsistence hunters in Nuiqsut and other North Slope communities and with members of the Ice Seal Committee to discuss its proposed construction activities in the winter of 2023 and the use of a subsistence advisor (as well as the possible use of trained dogs) and (2) revise its mitigation and monitoring measures as necessary to minimize disturbance of seals and subsistence hunting activities, based on input received.

Response: The final IHA includes a requirement that AGDC must conduct

the coordination with subsistence communities as described in the POC, which includes coordination with the ice seal committee. AGDC will only work during the winter/spring contingency period in the event that unforeseen circumstances or delays prevent them from completing construction during the open water season, and intends to clearly describe its potential winter construction to the ice seal committee and other subsistence groups. Additionally, the final IHA includes a requirement that AGDC must consult with an experienced subsistence advisor for detection of seal lairs for activities that occur in winter, and must implement a 150-m avoidance buffer in the event lairs are identified during construction. NMFS is not requiring AGDC to utilize trained dogs to detect ringed seal lairs, as there are a very limited number of trained dogs available for detecting seal lairs, and further Alaska Native subsistence hunters have raised concerns about polar bears following the scent of the dogs to hunt those lairs (pers. comm., Sheyna Wisdom).

AGDC will continue to work closely with subsistence hunters from North Slope communities, including the ice seal committee to minimize disturbance of seals and subsistence hunting. If additional measures are agreed upon, they will be added to the POC, which as described previously, AGDC is required by the IHA to follow.

Comment 10: A commenter stated that each year it devotes substantial resources toward negotiating a CAA with oil and gas companies to mitigate the impacts of oil and gas exploration on our subsistence lifestyle and our way of life. Thus, the analysis in the **Federal Register** of potential impacts to subsistence uses should begin with a discussion of whether the operator has signed the CAA and, if so, what the CAA includes as mitigation measures for our subsistence activities. By setting forth that discussion—and by incorporating those mitigation measures into the IHA, along with the measures already discussed by NMFS—the agency provides itself a firm, rational basis to issue a “no unmitigable adverse impact” finding, as required by the MMPA. The commenter noted that such steps are necessary even though a recent Order from FERC for this project requires a signed CAA before construction can begin. Another commenter stated that the proposed authorization depends on a CAA with Alaska Native villages, although it is unclear what the agreement will entail, and therefore, it is arbitrary for NMFS to rely on such agreements to determine that there will

not be adverse impacts to subsistence use.

Response: NMFS did not use the potential CAA to justify its preliminary unmitigable adverse impact determination in the proposed IHA. Rather, NMFS described what a CAA is, and mentioned that AGDC was considering whether it would enter a CAA or similar agreement with the AEWC, and that it would discuss and evaluate a CAA in the meetings discussed in the notice. As described in this final notice, AGDC has determined that it will enter the CAA for the construction season, as it is required by a FERC order (noted by commenters). NMFS’ unmitigable adverse impact analysis and determination is based upon our analysis of the impacts of the action on subsistence uses and the mitigation measures included in the IHA and described in this notice. As stated above, NMFS supports and encourages participation of applicants in the CAA process. Where measures likely to be identified through the CAA process are necessary to ensure an unmitigable adverse impact on subsistence uses or that the activities have the least practicable adverse impact on the affected species or stocks and their habitat (paying particular attention to the availability of the species or stock for taking for certain subsistence uses), similar or identical measures would be appropriately included in the IHA, however, NMFS does not require applicants to sign the CAA.

Substantial mitigation measures have been agreed upon to minimize potential impacts to subsistence activities as described in the Mitigation Measures section of this notice. The final IHA requires project aircraft to transit at an altitude of 457 m (1,500 ft) (except in specific circumstances, such as landing or takeoff), as included in the 2020 CAA. We note, though, that AGDC will sign the CAA in the year in which work is conducted rather than this year, so the exact mitigation measures included in the CAA are not known. However, in addition to the specific mitigation measures outlined in the IHA, the IHA requires AGDC to conduct coordination with subsistence communities to resolve conflicts and to notify the communities of any changes in the operation, as described in its POC, in addition to FERC’s requirement that it sign the CAA prior to the start of construction. This additional coordination may result in additional mitigation measures, if agreed upon by the communities and AGDC.

Comment 11: Commenters stated that the IHA focuses only on pile driving

and does not address other activities associated with AGDC’s project, such as screeding, gravel deposition, multi-beam hydrographic surveys, barge bridge tail wall pile driving, drilling/augering noise, construction of the seabed pad. A commenter further stated that gravel deposition for the causeway widening and 31-acre (0.13 km²) dockhead and annual screeding of 13.7 acres (0.06 km²) of seabed will destroy habitat for marine mammals and their prey. It will also cause sedimentation and turbidity in the project area and nearby vicinity. The filling and screeding activities will suspend contaminants in the water column, which can be taken up by marine mammals or their prey. The activities will also harm benthic organisms, and the sedimentation and turbidity will adversely affect benthic organisms, plankton, and fish that are prey for marine mammals (Bluhm and Gradenger, 2008). NMFS’ rationale that screeding impacts are discountable because of naturally high sedimentation and turbidity is inadequate to address the additive impacts of the construction activities.

Commenters stated that more consideration should be given to potential impacts from the sources listed above and to NMFS’ decision to exclude these items from further analysis. One commenter asked NMFS to encourage organizations to deal with all aspects of a proposed project in future IHAs.

A commenter also stated that NMFS provides an unsupported claim that because annual installation of a barge bridge and construction of a seabed pad sound like ordinary construction they do not expect take from these activities. If the AK LNG project, however, were not being built these construction noises would not occur. There is no evidence that normal construction noise and activities do not take marine mammals.

A commenter stated that it is unclear if there has been discussion of the cumulative impacts from these sources (in reference to screeding, gravel deposit, and vessel traffic).

Response: AGDC did not request take for the activities listed by the commenters. NMFS considers all aspects of a project in its analysis, and concurs that take is unlikely to occur for activities other than pile driving, and therefore, has not included take for those activities in the final IHA.

As described in the proposed IHA, we do not expect take from screeding to occur as a result of AGDC’s activities, however, the proposed and final IHAs include a requirement for AGDC to follow all mitigation measures described

in the biological opinion, including a shutdown zone of 215 m for screeding. NMFS has added this specific requirement to the final IHA as well.

Gravel deposition will produce a continuous sound of a relatively short duration, does not require seafloor penetration, and will affect a very small portion of habitat for marine mammals and their prey. Therefore, NMFS does not expect gravel deposition to result in marine mammal harassment. Further, a portion of the gravel deposition will occur behind sheet piles, which will act as an acoustic barrier which further supports the conclusion that take from gravel deposition is unlikely to occur.

Regarding the planned multi-beam hydrographic surveys, which AGDC will perform to identify high and low spots in the seabed prior to each season, the survey would be conducted with equipment emitting sound above 200 kiloHertz (kHz), which (as described in the Marine Mammal Hearing section of the notice of the proposed IHA (85 FR 43382; July 16, 2020)), is above the highest frequency in the generalized hearing ranges of marine mammals (35 kHz for LF cetaceans, 160 kHz for MF and HF cetaceans, 86 kHz for phocids, and 39 kHz for otariids). We do not expect these surveys to take marine mammals, as marine mammals are unlikely to hear the surveys, much less respond to them. The stranding events in Madagascar and the Gulf of California (described in Comment 12, below) involved different sources from that which AGDC plans to use, and in those events, the sources were within marine mammal hearing ranges.

NMFS included the barge bridge tail wall piles to be installed in-water in its analysis. A large portion of the barge bridge tail wall piles will be driven into dry ground, and therefore installation is unlikely to result in take of marine mammals. Please see Comment 16 for information about why NMFS does not expect take from in-air noise (such as pile driving on land).

Construction of the seabed pad includes drilling or augering holes through the sea ice, an initial through-ice bathymetric survey, and smoothing of the seabed (including potential gravel fill and installation of rock-filled marine mattresses) is not predicted to result in the take of marine mammals for the reasons described below.

Drilling/augering and the through-ice bathymetric survey are the first steps of the seabed pad preparation, which is expected to begin in February. Cetaceans are not predicted to be present in the area during this time (Quakenbush *et al.*, 2018, Citta *et al.*, 2016) and while ringed seals likely will

be present, few, if any, spotted or bearded seals are likely to be present during that time (Bengston *et al.*, 2005; Lowry *et al.*, 1998; Simpkins *et al.*, 2003). Therefore, take of cetaceans from drilling/augering is not expected, and take of spotted or bearded seals is so low as to be discountable. Given that drilling/augering is expected to occur in February, prior to ringed seals establishing lairs, we would not expect ringed seals to build their lairs close enough to the project so as to be disturbed by the drilling/augering activity. The potential that a seal might be disturbed by the activity and build its lair in an alternate location due to drilling/augering is accounted for in the Level B harassment takes, which have considered all likely take by behavioral disturbance, including that which could influence lair location.

Smoothing of seabed (screeding) is unlikely to result in take, and NMFS has included a shutdown zone for screeding, as described above. Gravel deposition is not expected to take marine mammals for the reasons described above. While placement of rock-filled mattresses could result in take due to the physical presence of the equipment and mattresses, the likelihood of marine mammals being close enough to this activity to be taken is discountable, as the activity will occur in very shallow water (surface of the pad will be -6 ft (1.8 m) MLLW).

As NMFS stated in the *In-water Construction Effects on Potential Foraging Habitat* section, a small amount of seafloor habitat will be disturbed or covered as a result of pile driving, gravel deposition, screeding, and other seabed preparation; however, for the reasons described in that section, NMFS does not expect those activities to meaningfully impact the amount of habitat available to marine mammals, and it will not result in the take of marine mammals. Further, while the project will likely increase turbidity in the immediate project area, this increased turbidity will be very localized and of a short duration, and it is not expected to have a significant impact on marine mammal habitat for the reasons described in the *In-water Construction Effects on Potential Foraging Habitat* section of the proposed IHA. The filling and screeding activities could also result in the suspension, and potentially consumption, of contaminants by marine mammal prey, and subsequently marine mammals, as suggested by the commenter; however, given the limited duration of filling and screeding activities, we expect suspension and consumption of contaminants by marine

mammals and their prey would be minimal, and would not impact the fitness of any individual marine mammal.

Installation of the barge bridge involves moving two barges into place against the mooring dolphins with tugs, where they will be ballasted and fastened to the causeway abutments and to each other. Moving the barges into place is expected to occur in a relatively slow, predictable manner, and while marine mammals do respond to vessel noise, NMFS does not expect that any behavioral responses to movement of the barges are likely to qualify as take of marine mammals. Ballasting the barges is unlikely to take a marine mammal, given the nature of the activity.

Regarding discussion of the cumulative impacts from screeding, gravel deposition, and vessel traffic, NMFS has described immediately above (and in responses to Comments 13 and 14 for vessel noise and vessel strike) why these activities are unlikely to result in the take of marine mammals and the discussion is applicable to the unlikelihood of aggregate impacts of these activities as well.

Comment 12: A commenter stated that geophysical surveys with echosounders and sonar have been linked to marine mammal harm and harassment. The proposed project will include geophysical surveys conducted prior to pipeline construction, including single-beam echosounder, multi-beam echosounder, and side-scan sonar. In 2008, an Independent Scientific Review Panel identified a multi-beam echosounder as the “most plausible and likely behavioral trigger” for a massive stranding event of hundreds of whales in Madagascar. In 2002, in the Gulf of California a beaked whale stranding event also correlated with a scientific research survey using multi-beam sonar. While these echosounders and sonar may have used lower frequencies than the one proposed here, it is concerning that high-power echosounders have the potential to negatively impact marine mammals across far distances from the source. NMFS failed to adequately consider the potential impacts from these surveys, and it should mitigate them with restrictions on low-frequency systems, larger safety zones, and time area closures.

Response: As stated in response to Comment 11, AGDC will perform multi-beam echosounder hydrographic surveys to identify high and low spots in the seabed prior to each season; however, the survey would be conducted with equipment emitting

sound above 200 kHz, which is outside of marine mammals' hearing ranges.

AGDC did not propose and does not plan to conduct the other activities (single-beam echosounder and side-scan sonar) suggested in this comment; therefore, NMFS did not discuss these activities in the proposed or final authorization, and did not propose or require associated mitigation.

Comment 13: Commenters stated NMFS must consider impacts from vessel noise (Erbe *et al.*, 2019). The Chukchi and Beaufort Seas have very little vessel traffic, and the Arctic's seals and whales are at risk from vessel collisions and disturbance (McFarland, 2017). The determination that vessels do not need to be considered in this rulemaking because it is ordinary vessel traffic is in error. The proposed project will include numerous vessel trips for the construction of the AK LNG facilities in a sensitive remote area. The commenter further states that NMFS calculated that there will be 184 vessel trips per year associated with the Prudhoe Bay construction. Specifically, there is a significant risk that endangered bowhead and other whales will be harassed or harmed by vessels traveling from Asia to Dutch Harbor to Port Clarence to Prudhoe Bay Offshore Staging Area (south of Reindeer Island) to the West Dock. Notably, the route could endanger North Pacific right whales. NMFS must analyze the impacts of the proposed action on North Pacific right whales whose population hovers around 26–31 individuals.

The commenter stated that NMFS must account for take by vessel traffic. First, low frequency noise from vessels tends to overlap with the communication sounds that marine mammals use, and therefore vessels can mask important communications (Southall *et al.*, 2018; Putland *et al.*, 2018; Clark *et al.*, 2009). Ship noise has been associated with decreased foraging activity for humpback whales (Blair *et al.*, 2016).

Response: AGDC requested authorization of take associated with construction activities at West Dock in Prudhoe Bay. AGDC did not predict, and did not request authorization for take from vessel noise or vessel strike associated with vessel transit, or for any other activities other than West Dock project construction activities addressed in this notice, or activities in the related AK LNG Cook Inlet rule (85 FR 50720; August 17, 2020). NMFS concurs that such take is not likely to occur. Therefore, vessel transit noted by the commenter is not within the scope of this IHA.

Because vessels will be in transit, exposure to ship noise will be temporary and relatively brief and will occur in a predictable manner, and also the sounds are of relatively lower levels. Regarding masking, elevated background noise from multiple vessels and other sources can interfere with the detection or interpretation of acoustic cues, but the brief exposures to one or two AGDC vessels at a time would be unlikely to disrupt behavioral patterns in a manner that would qualify as take. Please see Section 6.4.7 of the Biological Opinion for additional information about vessel noise, and Section 2.1.2 of the Biological Opinion for required mitigation measures associated with vessel transit.

Regarding North Pacific right whales, the species does not occur in the project area, and therefore, no take of North Pacific right whales associated with the construction activities at West Dock is expected to occur. While North Pacific right whales and bowhead whales may occur in areas where project vessels will transit, take associated with vessel noise or vessel strike is not likely to occur for the reasons stated above (vessel noise) and in NMFS' response to Comment 14 (vessel strike).

Comment 14: A commenter expressed concern about potential vessel strike associated with the AK LNG project, stating that collisions with vessels is one of the biggest threats to the world's endangered whales.

In a related comment, a commenter recommended that NMFS require AGDC to implement vessel speed restrictions of 10 knots or less to reduce the risk of marine mammal ship strikes, reduce air pollution and reduce ocean noise that can mask marine mammal communications and displace marine mammals.

Response: The potential for vessel strikes is so low as to be discountable during the construction phase of the project, given the lack of known previous ship strikes in the area (as discussed in section 6.3.2 of the Biological opinion) and the required mitigation measures for vessel transit included in Section 2.1.2 of the Biological Opinion, which are expected to further reduce the potential for vessel strikes. The mitigation measures in the Biological Opinion pertaining to vessel transit (which AGDC is required to adhere to), include a requirement for vessels traveling between West Dock/Endicott and Foggy Island Bay not to exceed speeds of 10 knots in order to reduce the risk of vessel strikes. AGDC only requested, and this IHA only authorizes, take associated with the construction at West Dock. Therefore,

mitigation associated with other components of AGDC's broader AK LNG project is not included in the IHA.

Potential impacts on marine mammals from vessels involved in the construction at West Dock were also discussed in Section 4.6.3.2 of the Alaska LNG Project Final EIS. NMFS served as a cooperating agency and participated in the development of the Alaska LNG Project EIS, and adopted the Final EIS on February 16, 2021.

Comment 15: A commenter stated that ballast water and invasive species from ships can have harmful ecological impacts that may affect the Arctic habitat.

Response: The impacts of AGDC's activity on the human environment (including invasive species and ballast water management) are addressed in the Alaska LNG Project Final EIS. Please see Section 4.3.3.3 of that document for additional information regarding planned ballast water management. AGDC did not request take of marine mammals associated with the introduction of invasive species. NMFS concurs that the introduction of invasive species from the exchange of ballast water is unlikely to result in the take of marine mammals and did not authorize associated take.

Comment 16: A commenter stated that NMFS ignores out-of-water noise impacts on marine mammals. However, the marine mammals that are impacted by the proposed activities also inhabit sea ice and land above water. Some pinnipeds are equally susceptible to noise in air as in water (Kastak *et al.*, 2007). Southall *et al.* (2019) provides in-air PTS and TTS thresholds for pinnipeds.

In a related comment, a commenter stated that while NMFS admits that there are non-acoustic stressors, it nonetheless completely writes them off without any support. The commenter cited the following from the notice of the proposed IHA: "Potential non-acoustic stressors could result from the physical presence of the equipment and personnel; however, any impacts to marine mammals are expected to primarily be acoustic in nature."

Response: In-air stressors and non-acoustic stressors, such as the physical presence of land-based equipment and personnel, are not expected to affect cetaceans, given that cetaceans are present only in the water at some distance from shore and the activity and remain under water the majority of the time, and therefore are not expected to be exposed to these stressors. While AGDC may use barges to stage land-based equipment during some activities, these barges would be stationary, and at

the project site where the water is extremely shallow (less than 14.2 ft. (4.3 m) at West Dock); therefore, we do not expect bowhead whales to occur close enough to the barge or equipment to be disturbed by its presence. Given the rare occurrence of beluga whales within the barrier islands, as evidenced by Block 1a ASAMM survey data, we expect the potential for beluga whales to be disturbed by barges to be so low as to be discountable. (Block 1a encompasses the area between the shoreline and the barrier islands, including Prudhoe Bay. ASAMM reports include just one beluga whale was observed in survey Block 1a in 2018.) We also do not expect gray whales to occur close enough to the barge or equipment to be disturbed by its presence, as gray whales rarely occur within the barrier islands, as also evidenced by Block 1A ASAMM surveys.

As stated in the *Acoustic Impacts* section of the notice of the proposed IHA, there are no known pinniped haulouts near the project location. Therefore, it is unlikely that pinnipeds would be taken by exposure to in-air noise during the open water season. While there is a chance that a pinniped could swim by the construction site with its head out of the water during on-land construction such as pile driving, and be taken by Level B harassment, the likelihood of that occurring is so low as to be discountable. Additionally, there is a small chance that an individual animal could haul out in an area that is not a normal haulout site, but the chance of that occurring is also discountable. Further, if AGDC must work during their contingency period, they will begin pile driving prior to March 1 (see Mitigation Measures), so we would not expect ringed seals to build their lairs close enough to the project site to be taken by in-air sound during the contingency period, other than potentially by building their lair in an alternate location due to construction noise, as discussed in NMFS' response to Comment 27.

While the presence of non-acoustic stressors could affect pinnipeds, a pinniped in the water that is close enough to be disturbed by a non-acoustic stressor is likely to have already been counted as taken due to in-water noise from activities occurring in the water. As noted above, while there is a chance that a pinniped could swim by the construction site with its head out of the water, or haul out in an area that is not a normal haulout site, and be taken by Level B harassment due to non-acoustic stressors, it is so unlikely as to be considered discountable.

Therefore, while a pinniped could be taken due to disturbance from in-air or non-acoustic stressors during construction, we would expect very few of these takes, if any. Further, any such takes would be within the margin of error in the take estimate and their potential effects fully considered in the analysis. Accordingly, additional takes from non-acoustic stressors have not been added into this final IHA.

Comment 17: A commenter stated that aircraft transportation is also part of the project; however, NMFS has completely ignored the impacts of aircraft noise and disturbance. Ice seals are sensitive to out-of-water noise, including hauling out in response to aircraft noise (Bradford and Weller, 2005; Born *et al.*, 1999).

Response: NMFS assessed the impacts of aircraft and does not expect aircraft noise from this project to result in the take of marine mammals. Born *et al.* (1999) analyzed "escape responses" (*i.e.*, hauled out animals entering the water) from an aircraft and a helicopter flying at an altitude of 150 m. The results of the study indicated that if the aircraft do not approach the seals closer than 500 m at that altitude, the risk of flushing the seals into the water can be greatly reduced. While Bradford and Weller (2005) note that helicopter presence resulted in flushing of most of the hauled out seals during observations, they did not note specific distances of the helicopter at which flushing occurred.

The final IHA includes a requirement that all aircraft must transit at an altitude of 457 meters (m) (1,500 feet (ft)) or higher, to the extent practicable, while maintaining Federal Aviation Administration flight rules (*e.g.*, avoidance of cloud ceiling, etc.), excluding takeoffs and landing. This altitude is significantly higher than the 150 m aircraft and helicopter altitudes analyzed in Born *et al.* (1999). If flights must occur at altitudes less than 457 m (1,500 ft) due to environmental conditions, aircraft will make course adjustments, as needed, to maintain at least a 457 m (1,500 ft) separation from all observed marine mammals. Helicopters (if used) will not hover or circle above marine mammals.

Comment 18: A commenter stated that NMFS' improperly narrowed analysis to only consider pile driving and removal activities is arbitrary because so many of the activities that are part of the project will also cause take of marine mammals. This resulted in an underestimate of take and improperly segmented the negligible impact determination. Additionally, many of these activities will take place over the multiple years

and are therefore inappropriate for approval under an IHA.

Response: First, activities other than pile driving and removal are not expected to result in the take of marine mammals for the reasons described in NMFS' responses to Comments 11 through 17 and the associated sections of this notice and the notice of the proposed IHA. The take estimate reflects the best available science, and a negligible impact determination is supported by the analysis in the Negligible Impact Analysis and Determination section of this notice and the notice of the proposed IHA. An IHA is appropriate, as AGDC expects the construction at West Dock, for which it requested authorization for the take of marine mammals, to occur over one year, and no serious injury or mortality is expected or authorized. While other project components associated with the AK LNG project may occur over a longer timeframe than just one year, we do not expect these activities to result in take for the reasons described in NMFS' Comment responses indicated above, and the associated sections of this notice and the notice of the proposed IHA.

Second, the MMPA specifically provides for issuance of IHAs for periods of not more than one year, provided the appropriate findings are made, even when the activities associated with a larger project are expected to span multiple years.

Comment 19: A commenter stated that additional potential impacts from activities which NMFS does not expect take (see Comments 11 through 17), as well as the proposed Level A harassment, should have been outlined in analysis and in the POC, as well as and in the meetings with the potentially affected communities.

Response: Regulations at 50 CFR 216.104(a)(12) require IHA applicants conducting activities in or near a traditional Arctic subsistence hunting area and/or that may affect the availability of a species or stock of marine mammals for Arctic subsistence uses to provide a POC or information that identifies what measures have been taken and/or will be taken to minimize adverse effects on the availability of marine mammals for subsistence purposes. A plan must include a statement that the applicant has notified and provided the affected subsistence community with a draft POC, a schedule for meeting with the affected subsistence communities to discuss planned activities and to resolve potential conflicts regarding any aspects of either the operation or the POC, a description of what measures the

applicant has taken and/or will take to ensure that planned activities will not interfere with subsistence whaling or sealing; and what plans the applicant has to continue to meet with the affected communities, both prior to and while conducting the activity, to resolve conflicts and to notify the communities of any changes in the operation. The POC includes these required components. It is not necessary for the POC to include a full discussion of the project and its impacts, as the relevant activities are addressed in an applicant's IHA application and NMFS' **Federal Register** notice of the proposed authorization (85 FR 43382; July 16, 2020).

Comment 20: A commenter stated that AGDC needs to consult with NMFS, the NSB, and the AEWC to ensure that there are enough acoustic monitoring devices deployed and placed in the most appropriate locations and distances from West Dock. Additionally, multiple commenters recommended that NMFS require AGDC to implement the acoustic monitoring suggestions provided by the PRP, including real-time PAM. In a related comment, a commenter stated that while requiring one passive acoustic monitoring device, NMFS did not require any real-time monitoring of it. The device will be used only to collect sound source level and general presence of marine mammals after the fact. The commenter stated that despite the potential usefulness of PAM given that this is a stationary activity, NMFS failed to use it for avoiding impacts to marine mammals. Another commenter also invited AGDC and NMFS to investigate other methods to mitigate these impacts.

Response: NMFS and AGDC have had extensive discussions about potential mitigation for marine mammals, including measures recommended by the PRP and by commenters. AGDC has consulted further with NSB and AEWC and intends to continue to do so, as stated in the POC. The required mitigation included in this final IHA ensures that AGDC's activities will have the least practicable adverse impact on the affected species and stocks, as well as subsistence uses of those species and stocks. Since publication of the proposed IHA, NMFS and AGDC have determined that it is practicable for AGDC to deploy three hydrophones in its PAM setup during the open-water season, as suggested by the PRP, rather than just one as stated in the proposed IHA. Please see AGDC's monitoring plan for additional information on the planned location for each device. If work is required during the ice-covered contingency period, AGDC will deploy

one hydrophone during that construction. Additional hydrophones during this period are not expected to provide meaningful additional data, as stated in NMFS' response to Comment 24. Further, NMFS does not expect the use of PAM to conduct real-time mitigation to be notably more effective in minimizing impacts than the included requirements due to the limited expected marine mammal vocalizations expected during the project period. Moreover, the significant additional cost and effort associated with real-time PAM implementation are impracticable. Therefore, in consideration of these limitations, further described in the *Monitoring Plan Peer Review* section of this notice, NMFS did not require AGDC to use PAM to conduct real-time mitigation.

Comment 21: A commenter stated that this IHA is for activities that are not set to begin for almost 2 years from the date of publication—July 1, 2022 to June 30, 2023—and will require a renewal. While the bulk of the noise will occur in the first year, the associated activity is likely to span six years. Section 101(a)(5)(D) is intended for projects limited to one year—beginning to end. The current project is much greater in time and in its scope of potential impacts than Congress intended.

Response: As noted in the Changes from the Proposed IHA to Final IHA section, AGDC now expects to begin construction in 2023, and therefore, the effective date of the final authorization is one year later than proposed.

While AGDC's inland construction is expected to occur over six years, AGDC plans to conduct the activities that are expected to result in the harassment of marine mammals within one year. Furthermore, while 101(a)(5)(D) may only authorize take of marine mammals for a duration of one year, the statute does not limit use of this section to activities that last one year or less. AGDC has requested authorization for activities that are expected to occur within one year, the activities are not expected to result in serious injury or mortality, and an IHA is appropriate.

Regarding the start date, while the start date is not until July 2023, the IHA includes a provision stating that the authorization may be modified, suspended or revoked if NMFS determines: (1) The authorized taking is likely to have or is having more than a negligible impact on the species or stocks of affected marine mammals, (2) the authorized taking is likely to have or is having an unmitigable adverse impact on the availability of the affected species or stocks for subsistence uses, or (3) the prescribed measures are likely

not or are not effecting the least practicable adverse impact on the affected species or stocks and their habitat.

Regarding renewals, NMFS issued a one-year IHA with the understanding that AGDC can complete the planned work for which the IHA authorizes take within the one-year period. As necessary, NMFS makes the decision of whether or not to issue a Renewal after one is requested based on current information and the best available science, and in adherence with the renewal criteria described in the notice of the proposed IHA (85 FR 43382; July 16, 2020). NMFS may issue a one-time, one-year Renewal IHA if 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.

Comment 22: A commenter stated that it is supportive of industrial activities that balance the development of resources and protection of subsistence resources to ensure our people meet their nutritional and cultural needs. The NSB and its residents not only benefit from the financial revenue generated by industry but also continue to rely upon subsistence resources. Balanced development helps fund State and NSB programs that provide many services for our residents while also ensuring the continued access to subsistence resources that our people have used for millennia. The AGDC's proposed project is likely such an example, but some of the mitigation and monitoring aspects need to be strengthened. In order for this balanced development to occur adequately, we need to have (1) quality baseline information about resources, (2) effective mitigation measures, and (3) appropriate monitoring.

Response: This final IHA reflects the best available scientific information. NMFS has responded in separate comment responses to the commenter's specific recommendations regarding mitigation and monitoring measures.

Comment 23: A commenter stated that the potential impact on ringed and bearded seals is a concern as is the inability of AGDC to effectively monitor the ensonified area. Monitoring the entire area is needed in order to mitigate possible takes and to estimate the actual number of takes relative to those that are permitted. The commenter further stated that it is important that industrial activities are mitigated as much as possible to reduce possible impacts to

their hunters' ability to land whales, given challenges during the 2019 whaling season. A commenter stated that because Level A harassment takes could result in injury or mortality, observers play an important mitigation role. If a marine mammal is about to enter or is within the Level A harassment zone, the observer must halt operations to prevent injury. NMFS should require AGDC to have a monitoring plan that allows observers to see the entire Level A monitoring zone.

In a related comment, a commenter stated that NMFS failed to meet the least practicable adverse impact standard because the proposed shutdown zones are smaller than the Level A harassment zones. The commenter asserts that NMFS failed to ensure that ice seals are adequately protected from take, and that rather than adopting more effective monitoring methods for the shutdown zone such as passive acoustic or thermal monitoring in response to the PRP's comment that PSOs would be unable to adequately monitor the shutdown zone, NMFS decreased the shutdown zone to 500 m for seals.

Commenters stated that previous monitoring for oil and gas projects show that sightability curves begin to drop off at ~1 km for whales and ~200 m for seals even when conditions are suitable for seeing marine mammals (LGL *et al.*, 2011, Figures 3.28 and 3.44). This means that whales and seals beyond those distances would be very difficult, if not impossible at times, to see. The result of this difficulty could be misinterpretations of data, such as a downward bias in estimated takes. The situation is even worse during inclement and windy weather or in low light conditions and at night. Observers stationed near the pile driving activities would not be able to adequately monitor the entirety of Level A zones.

Regarding Level B harassment, a commenter stated that monitoring the Level B harassment zone is required by NMFS so that IHA applicants can estimate how many marine mammals they disturbed during the construction activities. This is important to ensure that Level B harassment takes are kept small and do not exceed those allowed by NMFS. Monitoring and mitigating impacts are especially important for marine mammals that are important for subsistence.

In order to estimate the number of Level B harassment takes, there needs to be adequate monitoring of the Level B harassment zones. Currently, AGDC is planning to have observers at West Dock and use some passive acoustic monitoring. We expect that AGDC is planning to use observations within the

viewable zone of observers and somehow expand those observations to the entire Level B zone to estimate takes. The Open Water PRP did a good job of explaining the weaknesses and difficulties of using this approach. NMFS should take advantage of the expertise of that panel and implement their recommendations on how to improve visual monitoring.

Response: NMFS is required to include measures that ensure the least practicable adverse impact, as we have done here, but the MMPA does not require applicants to mitigate to avoid all takes. In this case, shutdown zones that encompass the vast majority of the Level A harassment zones (all but the outer portion of the phocid zone for impact pile driving, and an extremely small (6 m) portion of the mid-frequency (MF) cetacean zone during impact driving of 48-inch piles) have been required, resulting in avoidance of Level A harassment for all but minimal numbers for three pinniped stocks, and minimization of more severe Level B harassment. Monitoring of these shutdown zones is expected to be effectively accomplished with the monitoring protocols outlined below.

The least practicable adverse impact standard includes a practicability component, and it is not practicable for AGDC to observe the entire Level A harassment zone for all species during all activities, given that the largest Level A harassment zone for phocids is estimated to be 843 m. The potential impacts of the activity were appropriately considered in the analysis, and given that the shutdown zones do not include the entire estimated Level A harassment zones for all activities, the IHA authorizes Level A harassment take of ringed, spotted and bearded seal, in case an animal enters the Level A harassment zone and remains in the zone for a long enough period to incur PTS. (Given the duration component associated with calculation of Level A harassment zones, a marine mammal that enters a Level A harassment zone does not always incur PTS.) There is no evidence suggesting that PTS (especially of the small degree that could potentially result from exposure to the pile driving in this activity) has the potential to cause mortality. As described in the Negligible Impact Analysis and Determination section, animals that experience PTS will likely only receive slight PTS, *i.e.*, minor degradation of hearing capabilities within regions of hearing that align most completely with the frequency range of the energy produced by pile driving, *i.e.*, the low-frequency region below 2 kilohertz (kHz), not

severe hearing impairment or impairment in the regions of greatest hearing sensitivity. If hearing impairment occurs, it is most likely that the affected animal will lose a few decibels in its hearing sensitivity, which in most cases is not likely to meaningfully affect its ability to forage and communicate with conspecifics. The visibility distances cited by the commenter were also cited by the PRP, and originate from ship-based PSO observations in the Chukchi Sea (LGL *et al.*, 2011). As NMFS described in the *Monitoring Plan Peer Review* section of this notice and the notice of the proposed IHA, while the 500 m shutdown distance for phocids is greater than the 200 m estimated by the PRP, AK LNG project PSOs will observe from elevated platforms on shore. Shore-based PSOs typically have greater visibility than vessel-based PSOs, and the elevation is expected to increase the distance that PSOs can effectively observe. NMFS consulted with AGDC and its contractor, who has extensive experience conducting monitoring for marine mammals on the North Slope of Alaska, and given the elevated PSO sites and equipment, AGDC expects that PSOs will be able to effectively observe phocids at distances up to 500 m, large cetaceans at 2–4 km, and belugas at 2–3 km, and NMFS concurs. Therefore, the shutdown zones included in the proposed and final IHA are the largest practicable for AGDC to implement, and that PSOs will be able to effectively observe marine mammals within. However, we note that the biological opinion includes a requirement for proportionate monitoring at all distances within the Level A harassment zone, such as a wedge of a circle, where that wedge contains at least 10 percent of the total zone (*i.e.*, a 36 degree wedge), in the event that PSOs cannot fully observe the Level A harassment zone.

As noted above, the shutdown zones are expected to minimize the potential for more severe Level B harassment take of marine mammals. However, monitoring requiring that PSOs observe the entire Level B harassment zone is not included, as it is not practicable, given the zone sizes. Monitoring the full zones would require multiple vessels, which is a great expense, potential safety risk to PSOs, and would result in additional vessel traffic in the project area. Given that AGDC is attempting to complete construction during the open-water period and the extended daylight on the North Slope during that time, the majority of the work will be completed during daylight hours, despite AGDC's

plans to work 24 hours per day. Additionally, as stated in the *Mitigation for Marine Mammals and Their Habitat* section, PSOs will test and use night vision devices (NVDs) and infrared (IR) for nighttime and low visibility monitoring. The IHA also requires AGDC to record visibility conditions every 30 minutes throughout construction, which will inform the portion of the Level A and Level B harassment zones PSOs were able to observe.

The monitoring required by the final IHA, as well as the biological opinion, will allow NMFS to have an estimate of the actual number of takes that result from the activities relative to the number authorized. PSO observations in the area visible to them will provide a good sample of the actual takes of marine mammals. Additionally, the final IHA also includes a requirement for AGDC to deploy three hydrophones during the open-water season, and one during the contingency period (should construction be required during that time) to conduct PAM. While these devices will not be monitored in real-time or used for the purposes of implementing mitigation, PAM detections of marine mammals will further inform the actual number of takes that result from the activities relative to the number authorized. Please see the Monitoring and Reporting section for additional information.

For the reasons described in the *Monitoring Plan Peer Review* section of this notice, NMFS is not requiring AGDC to use the distance sampling methods recommended by the PRP.

Comment 24: Commenters expressed concern that NMFS may allow pile driving to occur during the ice-covered season. When ice covers the Beaufort Sea, seals continue to use the area for feeding and pupping. Monitoring seals under ice, especially to prevent Level A takes and avoid serious injury or mortality, is next to impossible. Additionally, because the ocean and lagoons are ice covered, it is more risky to seals because they cannot simply stick their heads out of the water to avoid loud sounds. The commenter stated that if NMFS is going to allow AGDC to conduct pile driving during ice-covered period, adequate monitoring, that must include acoustic monitoring, should be required by NMFS. A commenter also said that disturbing or injuring seals could impact subsistence hunting and resources. In a related comment, a commenter questioned whether options to pile drive have been considered during the winter months.

Response: AGDC has considered the potential to conduct pile driving during its winter/spring contingency period. However, AGDC intends to complete construction during the open-water season when the additional ice-related concerns raised by the commenter are not a concern, and seals are not building or using lairs. If AGDC does conduct construction during the ice-covered season, it will implement mitigation and monitoring measures for seals that are expected to avoid injury of seals, and minimize potential disturbance of seals, as described in the Mitigation Measures section of this notice, in NMFS' response to Comments 9 and 44, and in the *Monitoring Plan Peer Review* section of this notice.

AGDC is highly motivated to complete work during the open-water season, as work during the ice-covered winter/spring contingency period would require additional equipment and include other constraints.

Regarding monitoring, if construction during the contingency period is required, AGDC will deploy one hydrophone for PAM of marine mammals. Additional hydrophones during the contingency period are not warranted, as we do not expect cetaceans to be present in the area during this time (Quakenbush *et al.*, 2018, Citta *et al.*, 2016) and while ringed seals likely will be present, few, if any, spotted or bearded seals are likely to be present during that time (Bengston *et al.*, 2005; Lowry *et al.*, 1998; Simpkins *et al.*, 2003). NMFS is not requiring AGDC to place the hydrophone in a certain location, as the location will depend on conditions in the construction year. As requested by the NSB and AEWC, if construction is required during the contingency period, AGDC will submit an acoustic monitoring plan to NMFS and AEWC for review once contractor is selected, but prior to the construction season. While the device will not be monitored in real-time or used for the purposes of implementing mitigation, PAM detections of marine mammals will further inform the actual number of takes that result from the activities relative to the number authorized.

Regarding whether alternatives to pile driving have been considered, the Alaska LNG Project Final EIS identifies the alternatives that FERC and AGDC considered and assesses their impact on the human environment. The MMPA requires that NMFS analyze the specified activity that the applicant proposes (in this case, pile driving) in the context of the standards described in section 101(a)(5)(D), and issue an authorization provided the necessary

findings are made. As described in this notice, NMFS has made the necessary determinations and issued the authorization.

Comment 25: A commenter urged NMFS to withdraw its proposed IHA to allow the incidental take of marine mammals for the AK LNG Project in Prudhoe Bay. The commenter states that the project threatens the survival of threatened and endangered bowhead whales, ice seals, and other Arctic wildlife.

Response: As described in this notice, NMFS has made the necessary findings, as required by Section 101(a)(5)(D) of the MMPA and NMFS' implementing regulations, and therefore, withdrawing the proposed IHA was not warranted. The best available information does not indicate that this authorization threatens the survival of threatened and endangered bowhead whales, ice seals, and other Arctic wildlife as suggested by the commenter.

Comment 26: A commenter stated that NMFS underestimated take from acoustic stressors. The commenter asserted that there are several concerns with the estimates of take from pile driving and removal. Some marine mammals are more sensitive to noise, behavioral harassment was inadequately considered, and NMFS' density estimates are problematic. The commenter references specific examples of effects of noise on bottlenose dolphins, beluga whales, harbor porpoises, harbor seals, and bowhead whales.

The commenter further stated that NMFS also does not take into account that bowhead whales travel in groups of two to five whales (Clarke *et al.*, 2018; 2019). Fall activities will also result in higher takes of bowhead whales that occur in greater densities in September and October. NMFS also assumes that bowhead whales do not occur nearshore in waters less than 15 ft (4.5 m); however, a recent tagging study found that immature whales aggregate in shallow waters and that habitat degradation or displacement from shallow aggregation areas could have energetic costs for these young whales (Harwood *et al.*, 2017).

The commenter suggests that a recent study shows that beluga whales have sensitive hearing (Mooney *et al.*, 2018). Beluga whales in the Beaufort Sea have site fidelity (Clarke 2018) and animals with site fidelity can be more vulnerable to noise impacts (Forney *et al.*, 2017). Beluga whales also move into estuaries in the summer to rub on the substrate to molt (Anderson *et al.*, 2017), which could mean that they are present in

Prudhoe Bay in higher densities in the summer.

Response: NMFS is aware that some species of marine mammals are more sensitive to noise than others and considers such sensitivity in development of mitigation measures. Of note, bottlenose dolphin and harbor seal do not occur in the project area, and specific examples of effects to these species are not relevant to this action. Harbor porpoises are considered to be extremely rare in the Beaufort Sea, particularly in the project area (Megan Ferguson, pers. comm., November 2019), and therefore no harbor porpoise take was proposed or authorized, and sensitivity of harbor porpoise to noise is also not relevant to this action. Regarding sensitivity of bowhead whales, the commenter references multiple papers regarding bowhead whale behavioral reactions to seismic airguns (please see CBD's letter for additional details), which are not part of this action. However, NMFS does recognize bowhead sensitivity to noise, and is requiring that during the Nuiqsut whaling season, AGDC must cease pile driving and vessels must transit landward of Cross Island to prevent potential impacts to bowheads during that important subsistence hunting period.

Regarding the comment that NMFS did not consider bowhead whale group size, the densities calculated from the ASAMM surveys inherently consider group size, as they are calculated in consideration of many animals over a large area. (NMFS notes that for gray whale, it considered group size in addition to the density-based take calculation, as the calculation resulted in a number of takes that was smaller than the typical group size.)

Regarding the presence of bowhead whales in shallow water, the paper referenced by the commenter (Harwood *et al.*, 2017) references Koski *et al.* (1988) and Koski and Miller (2009), which found that immature bowhead whales that summer on the Beaufort shelf occur in shallow water, considered to be <20 m (65.6 ft). This is far deeper than the Level A harassment zone (approximately 5.8 m (19 ft) deep at the isopleth) where NMFS has determined bowhead whales are not likely to occur, as no bowhead whale has been recorded in waters less than 16.4 ft (5 m) deep (Clarke and Ferguson 2010). Further, there have been no bowhead whales observed in Block 1a during ASAMM surveys since they began in 2016, further supporting NMFS' conclusion bowhead whales are not expected to occur within the Level A harassment zone during construction. Block 1a

encompasses the area between the shoreline and the barrier islands, including Prudhoe Bay.

The beluga whale density estimates included in this notice reflect that beluga whales are more likely to be present in higher densities in the summer; however, NMFS conservatively used the summer density to estimate potential Level B harassment takes during all work, not just the portion likely to occur in the summer months. Additionally, the summer density is expected to be an overestimate for the AK LNG analysis, even for the summer months, because the data is based on sighting effort outside of the barrier islands, and beluga whales rarely occur within the barrier islands, as evidenced by Block 1a ASAMM survey data. One beluga whale was observed in survey Block 1a in 2018. However, this sighting was a "sighting on search," meaning that the sighting occurred off of the survey transect, and therefore was not included in the density calculation. There have been no other Block 1a beluga sightings reported from ASAMM surveys to date. Therefore, the authorized number of takes by Level B harassment of beluga whale are likely an overestimate. Even if a beluga whale did respond to the construction noise to a degree that is considered a take by Level B harassment outside of the Level B harassment zone, such a take is likely within the margin of error of the take estimate.

Comment 27: A commenter stated that NMFS irrationally discounted behavioral harassment that amounts to take. NMFS admits that behavioral harassment that displaces marine mammals from important feeding or breeding area for a prolonged period could be significant; however, it failed to ever consider whether the behavioral harassment resulting from the proposed activities amounts to take. For example, NMFS mistakes displacement of seals for mitigation when it relies on construction activities to discourage seals from building lairs near the project.

Response: Winter and spring construction activities could result in the disruption of a ringed seal's behavioral patterns (*i.e.*, if a seal would have otherwise built a lair in the project area, it could be displaced). However, a seal which is taken by Level B harassment by behavioral disturbance (causing it to build its lair in a different location) would still be counted as one take by Level B harassment, though it is important to consider how the impacts of different types of take may impact an individual. Given that the average ringed seal ice structure density in the

vicinity of the project area is 1.58 structures per km² (Table 11), and the in-air impact area of the project extends approximately 16.8 m from the project location, it is unreasonable to expect that more than a few takes from the displacement of seal lair construction, an above water behavior, would occur. These few specific potential takes are covered by the take estimate and authorization and their impacts have been appropriately considered in the analysis. There are many other available locations for the seals to construct their lairs away from the project area, so potentially preventing a few individual seals from constructing lairs in the project area is not expected to negatively affect pupping success. NMFS also notes that construction is only expected to occur during this contingency period if AGDC is unable to complete construction during the open-water season, and NMFS expects that if AGDC works during the contingency period, it would be because of construction delays (and therefore, days on which they did not work) during their planned open water work season.

Comment 28: A commenter stated that NMFS assumed that prey would not be affected by the proposed activities, which is especially problematic because in only looking at the narrow one-year period, NMFS ignored the multiyear impacts of the proposed activities that will continue for at least six years. The commenter further states that NMFS acknowledges prey fish will avoid area during pile driving, but without support anticipates a "rapid return to normal recruitment, distribution and behavior." Pile driving causes fish mortality and behavioral responses, including dispersing schools of fish (Casper *et al.*, 2017; Hawkins *et al.*, 2014; Herbert-Read *et al.*, 2017).

Response: As stated previously, AGDC requested take for pile driving associated with construction at West Dock, and NMFS concurs with AGDC's assessment that other activities raised by the commenter are not expected to cause the take of marine mammals, as described in response to Comments 11 through 17. Impacts to prey species resulting from the specified activity described in AGDC's application (*i.e.*, the construction activities at West Dock and associated pile driving) are, as appropriate, addressed in NMFS' analysis; however, it is not appropriate to consider impacts on prey from activities that are not part of the specified activity (*i.e.*, those that do not occur during the year that this IHA covers).

NMFS acknowledged in the notice of proposed IHA that "potential prey (*i.e.*,

fish) may avoid the immediate area due to the temporary loss of this foraging habitat during pile driving activities. The duration of fish avoidance of this area after pile driving stops is unknown, but we anticipate a rapid return to normal recruitment, distribution and behavior” (Hastings and Popper, 2005, Popper and Hastings, 2009). Further, in the *In-water Construction Effects on Potential Prey* section of the notice of proposed IHA and this notice, NMFS acknowledges that “[sound pressure levels (SPLs)] of sufficient strength have been known to cause injury to fish and fish mortality,” however, the West Dock area already has limited prey availability, and therefore, even if fish mortality did occur, we would expect that marine mammals would forage elsewhere in the vast foraging area available to marine mammals outside of the immediate project area.

Comment 29: A commenter stated that NMFS underestimated take because its density estimates were wrong. For example, the density estimates for ringed seals were not corrected for unobserved animals. Also, lacking data for the summer and fall, NMFS simply cut density estimates by 50 percent without any rational basis for choosing this percentage.

Importantly, NMFS not only relied on old density data for winter, but it also incorrectly calculated the density. While NMFS said that the most recent [ASAMM] surveys did not specify species, it is worth noting that NMFS relied on proportionality measures for determining the density of other seal species and could have done the same to use newer survey data. For example, for spotted seals NMFS assumes that they are 20 percent of seals and bearded seals are 17 percent of sightings. This same approach could be used to determine seal densities with more recent surveys (Clarke *et al.*, 2020).

Response: NMFS worked directly with Dr. Megan Ferguson of the National Marine Mammal Laboratory (NMML), one of the authors of the ASAMM reports, to calculate the cetacean densities using the available ASAMM survey data at the time (through 2018). NMFS has discussed the more recent 2019 surveys in the *Marine Mammal Occurrence and Estimated Take* sections of this notice. Further, while we expect that new ASAMM data will likely become available between the time that this IHA is issued and when AGDC begins work, given that the new data would be averaged with previous observations (beginning in 2011 for bowhead and gray whale and 2014 for beluga whale), we do not expect that new survey data would have

more than a minor effect on the densities or estimated take calculations for cetaceans.

Regarding the phocids take estimates, NMFS noted the limited availability of recent data in the notice of proposed IHA. As stated by the commenter, and in the notice of the proposed IHA, the ringed seal densities used to estimate take are not corrected for unobserved animals, and therefore may result in an underestimated density. However, as also noted, the fact that density calculations were conservatively calculated only from sightings observed in water depths greater than 10 ft. (3 m) (Moulton *et al.*, 2002a, Moulton *et al.*, 2002b, Richardson and Williams, 2003), while the water surrounding the project site is shallow (less than 14.2 ft. (4.3 m) at West Dock), is likely to result in some degree of overestimation of density. Also for ringed seals, as stated by the commenter, NMFS estimated that the summer ringed seal density would be 50 percent of the spring density, as also calculated for the Liberty Drilling and Production Island Final Rule (84 FR 70274; December 20, 2019). The surveys were flown in the spring, when the greatest percentage of seals have abandoned their lairs and are hauled out on the ice (Kelly *et al.*, 2010) and therefore provide the best available information on ringed seal densities. During the summer, ringed seals range considerable distances; ringed seals make trips farther offshore to find sea ice during the summer (Von Duyke *et al.*, 2020), supporting the expected lower densities in the coastal project area during the summer months in comparison to the spring when ringed seals mostly haul out on the ice. Therefore, NMFS continued to estimate the summer ringed seal density as 50 percent of the spring ringed seal density in the final IHA. NMFS has appropriately considered the best available, though limited, data regarding the density of ringed seals in both the density and take estimates.

The commenter recommended that NMFS use the 2019 ASAMM surveys (Clarke *et al.*, 2020) which were conducted during summer and fall 2019, to apply a method of estimating proportionality of seal species with that data, similar to which NMFS did in the proposed IHA with the Northstar data. While the ASAMM data is more recent, most ASAMM pinniped observations are not identified to species, and pinniped observations in the ASAMM surveys include walrus observations. The reports used in the take calculation in this IHA to determine proportionality of seals in the project area do not all include walrus observations. Therefore,

it is not appropriate to apply these same proportions to the ASAMM data. NMFS is unaware of, and the commenter has not offered, more recent alternative sources that are appropriate for calculating proportions of all pinnipeds in the Beaufort Sea, including walrus.

Comment 30: A commenter stated that NMFS’ decision that take would only occur on 123 days rather than the AGDC’s estimated 164 days is arbitrary and underestimates take. NMFS says that AGDC will complete construction during the April to October season and therefore the take will overlap with some piles being installed on the same day and thus only occur on 123 days, and therefore, NMFS also cuts the estimated marine mammal take by 25 percent. But then it allows for a contingency period in case the construction takes longer. The commenter states that activities during the contingency period will have increased impacts that have not been adequately analyzed. Moreover, NMFS states that “AGDC will only operate one hammer at a time during all pile driving;” which may mean that not more than one pile is installed on the same day. This underestimates both the negligible impact and small numbers determination.

Response: As stated in the notice of the proposed IHA, AGDC expects to conduct the planned construction between July and October. As described in that notice, NMFS recognizes that AGDC may work outside of this period in their February to April contingency period; however, we expect that if AGDC works during the contingency period, it would be because of construction delays (and therefore, days on which they did not work) during their planned open water work season, rather than additional construction activity or time, and we expect that construction during that period would be very limited. Therefore, work during the contingency period is already accounted for in the take estimate and is not expected to meaningfully change the number of takes of marine mammals.

Additionally, as stated in the Description of Marine Mammals in the Area of Specified Activities section of the notice of the proposed IHA, ringed seals and bearded seals are the only species of marine mammals that may occur in the project area during the winter/spring contingency period. Therefore, for all other species, work during the contingency period rather than the open water season would likely reduce the number of takes from the project. Bearded seal densities are expected to be much lower in the

winter/spring than in the summer/fall, as noted in Table 12 of this notice. Therefore, if work is required during the contingency period due to construction delays during the open water season, takes of bearded seals are also expected to be lower than we have estimated in this authorization. For ringed seals, as NMFS noted in its response to Comment 27, there is a chance that a few seals could choose not to construct lairs in the project area due to construction noise in the contingency period, should construction occur during that time. However, as noted previously, construction during the contingency period, if any, is expected to be very limited. Further, the majority of the project area in Prudhoe Bay is of 3 m depth or less, and is expected to be dominated by bottomfast ice in Feb–April. Far fewer animals will be exposed to spring-based work because shorefast ice will be stationary, and only those seals that have breathing holes or lairs near the project are expected to be exposed.

As stated by the commenter, and in the notice of the proposed IHA, AGDC will only operate one hammer at a time during all pile driving. The expected pile installation rate and number of piles AGDC expects to install per day incorporates the planned use of just one hammer at a time. Therefore, these estimates directly informed the expected amount of time spent pile driving in one day and therefore, the resulting take estimates on each construction day. Additionally, the plan to operate only one hammer at a time does not mean that multiple hammers (of the same or different types) cannot be used on the same day. Rather, it only means that one hammer can actually be operating, and therefore producing sound, at any given time.

Comment 31: A commenter stated that NMFS' definition of small numbers conflates this criterion with the negligible impact requirement. Although NMFS uses different headings for its small numbers and negligible impact findings, by defining small numbers to be relative to the overall population the criterion ends up being similar to the negligible impact finding.

The commenter further stated that instead, the small numbers requirement is intended to protect individual marine mammals. As the Ninth Circuit stated in *Center for Biological Diversity v. Salazar*, “[l]egislative history confirms our reading of the statute if such confirmation is needed. The House Report accompanying Section 101(a)(4)–(5) of the MMPA indicates that Congress intended “‘small numbers’” and “‘negligible impact’” to serve as two

separate standards” (*Center for Biological Diversity v. Salazar*, 695 F.3d 893 (9th Cir. 2012)). The requirement that NMFS authorize the take of only “small numbers” of individual animals is no mere technicality. Congress's intent was that the MMPA protect not only populations, but individual marine mammals. While the “negligible impact” standard should serve to protect the species or population as a whole, the “small numbers” requirement guarantees that Congress's directive to protect individual marine mammals is carried out.

The commenter asserts the IHA fails to ensure that only small numbers of bowhead whales, ice seals, and the other marine mammals impacted by the AK LNG activities will be taken.

Response: NMFS did not conflate the small numbers determination with the separate, negligible impact determination. These analyses and determinations are not only discussed under separate headings, as noted by the commenter, but are also analyzed using separate criteria.

As stated in the small numbers section, the MMPA does not define small numbers and so, in practice, where estimated numbers are available, NMFS compares the number of individuals taken to the most appropriate estimation of abundance of the relevant species or stock in our determination of whether an authorization is limited to small numbers of marine mammals. When the predicted number of individuals to be taken is fewer than one third of the species or stock abundance, the take is considered to be of small numbers. Additionally, other qualitative factors may be considered in the analysis, such as the temporal or spatial scale of the activities. NMFS directly stated in the Small Numbers section of the proposed IHA, and this final IHA, that “Our analysis shows that less than one-third of the best available population abundance estimate of each stock could be taken by harassment (in fact, take of individuals is less than two percent of the abundance for all affected stocks). The number of animals proposed to be taken for each stock would be considered small relative to the relevant stock's abundances even if each estimated taking occurred to a new individual, which is an unlikely scenario.”

This proportional approach relative to the affected population is supported by *CBD v. Salazar*, the same case cited by the commenter, which found that “The Service can analyze small numbers in relation to the size of the larger population, so long as the ‘negligible

impact’ finding remains a distinct, separate standard.” The negligible impact standard remains a distinct, separate standard, as evidenced in the Negligible Impact Analysis and Determination section, through which NMFS evaluates the type, context, and severity of any authorized take to assess the impacts of the take on the fitness and reproduction of any affected individual marine mammals, and then, where appropriate, analyzes how any impacts on individual fitness may or may not accrue to affect rates of recruitment and survival of the species or stock. This analysis is clearly and appropriately distinct from the small numbers evaluation.

For a more detailed discussion of NMFS' interpretation and implementation of the small numbers standard, we refer the reader to the Small Numbers section of the Final Rule for the Taking Marine Mammals Incidental to Geophysical Surveys Related to Oil and Gas Activities in the Gulf of Mexico (86 FR 5438; January 19, 2021).

The commenter did not explain what it meant by its assertion that the IHA fails to ensure that only small numbers of bowhead whales, ice seals, and the other marine mammals impacted by the AK LNG activities will be taken.

Comment 32: A commenter stated that NMFS failed to implement “means of effecting the least practicable impact” on marine mammals by instead requiring mitigation measures that are known to be ineffective and by failing to adopt additional mitigation measures. PSOs are not as effective in mitigating acoustic impacts as time-area restrictions (*NRDC v. Pritzker* 828 F.3d 1125, 1133 (9th Cir. 2016), *Conserv. Council of Hawaii, et al. v. National Marine Fisheries Service, et al.*, 97 F. Supp. 3d 1210, 1230 (D. Haw. 2015); Dolman *et al.*, 2009). For example, visual observation detection rates of marine mammals decline significantly as sea states rise above Beaufort 1 (Barlow 2015).

Another commenter also noted that the IHA must prescribe “means of effecting the least practicable adverse impact” on the affected species or stocks and their habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance, and on the availability of the species or stocks for taking for certain subsistence uses (referred to in shorthand as ‘mitigation’).” The commenter stated that NMFS must ensure any proposed mitigation is sufficiently protective.

Response: The proposed and final IHAs require AGDC to implement a number of mitigation measures that

would minimize impacts to marine mammals. These include PSOs, establishment of shutdown zones, pre-activity monitoring, use of NVDs and IR (for nighttime and low visibility monitoring), soft start procedures for impact pile driving, and a requirement to begin construction prior to March 1 in the event that construction during the contingency period is necessary. Further, the authorization includes a requirement for AGDC to cease construction during the Nuiqsut whaling season. Please see the Mitigation Measures section for information about how these measures are expected to reduce impacts to marine mammals.

AGDC is required to abide by marine mammal mitigation measures NMFS consistently requires in pile driving incidental take authorizations, as they are considered effective at minimizing the impact to marine mammals. After evaluating all of the applicable information, NMFS has concluded that the required mitigation measures will affect the least practicable adverse impact on the affected marine mammal species and stocks and their habitats.

Comment 33: A commenter recommended that NMFS place an overall cap on all authorizations for marine mammal incidental take in the Arctic. The commenter stated that various construction, vessel traffic, oil and gas, and other activities are cumulatively threatening the conservation and recovery of Arctic species.

Response: The MMPA requires that NMFS issue an incidental take authorization, provided the necessary findings are made for the specified activity put forth in the application and appropriate mitigation and monitoring measures are set forth, as described in the Background section of this notice.

Both the statute and the agency's implementing regulations call for analysis of the effects of the applicant's activities on the affected species and stocks, not analysis of other unrelated activities and their impacts on the species and stocks. That does not mean, however, that effects on the species and stocks caused by other activities are ignored. The preamble for NMFS' implementing regulations under section 101(a)(5) (54 FR 40338; September 29, 1989) explains in response to comments that the impacts from other past and ongoing anthropogenic activities are to be incorporated into the negligible impact analysis via their impacts on the environmental baseline. Consistent with that direction, NMFS has factored into its negligible impact analyses the impacts of other past and ongoing

anthropogenic activities via their impacts on the baseline (e.g., as reflected in the density/distribution and status of the species, population size and growth rate, and other relevant stressors (such as UMEs)). See the Negligible Impact Analysis and Determination section of this notice.

Our 1989 final rule for the MMPA implementing regulations also addressed public comments regarding cumulative effects from future, unrelated activities. There we stated that such effects are not considered in making findings under section 101(a)(5) concerning negligible impact. We indicated that NMFS would consider cumulative effects that are reasonably foreseeable when preparing a NEPA analysis and also that reasonably foreseeable cumulative effects would be considered under section 7 of the ESA for ESA-listed species.

In this case, we have found that the total marine mammal take from the planned activity will have a negligible impact on all affected marine mammal species or stocks, small numbers of marine mammals will be taken relative to the population size of the affected species or stocks, and that there will not be an unmitigable adverse impact on subsistence uses from AGDC's planned activities. Further, the cumulative effects to listed species of the specified activity in combination with other activities are analyzed in the ESA biological opinion, and the cumulative impacts to the human environment are considered in the Alaska LNG Project Final EIS. Section 101(a)(5)(D) of the MMPA does not allow for a set limit on cumulative takings of marine mammals in the Arctic or other regions.

Comment 34: A commenter stated that NMFS should consider time restrictions during September and October when the region is a BIA for bowhead whales. (Please see the figures in the Center for Biological Diversity's comment letter for additional information.) The commenter stated that vessel traffic through the Bering Strait should be prohibited during bowhead and beluga whale migration through the narrow passage. The commenter further stated that no activities should be authorized when ringed seals are building their subnivean lairs starting in late February until they leave their lairs.

Response: Regarding additional restrictions on construction activities during September and October for bowhead whales, the proposed and final IHAs include a requirement that AGDC must shut down pile driving operations during the Nuiqsut whaling season, approximately August 25–September 15, though the shutdown will be

adaptively managed based on coordination with the Whaling Captain Associations, as the exact whaling dates may change. Further, the final IHA includes a requirement that project vessels must transit landward of Cross Island during the Nuiqsut whaling season. Given the short duration of the construction season, prohibiting work during additional periods during the open water season is not practicable, and may extend the duration of the project beyond the one-year duration expected, which would extend the timeframe of impacts to marine mammals and incur additional costs for AGDC. Therefore, this recommendation is impracticable to implement. Additionally, the BIAs referenced by the commenter (Clarke *et al.*, 2015) are addressed in the Description of Marine Mammals in the Area of Specified Activities section of the proposed IHA, and do not spatially overlap with the Level A or Level B harassment zones.

The recommendation to prohibit activities from the time when ringed seals are building their subnivean lairs until they leave their lairs is not practicable to implement for the same reasons stated above for the bowhead whale recommendation. NMFS included mitigation in the proposed and final IHAs requiring AGDC to begin work by March 1 in the event that work during the contingency period is necessary, which NMFS expects will deter ringed seals from building their subnivean lairs in the project area, and will prohibit further take of ringed seals during that period. Additionally, construction will only occur during the late winter and early spring in the event that AGDC is unable to complete construction during the planned open-water season.

Comment 35: A commenter stated that NMFS should require in-situ SSV be used to ensure that the Level A and Level B zones are sufficient.

Response: As described in the *Ensonified Area* section, the Level A and Level B harassment zones were calculated using practical spreading. NMFS expects that the calculated zone sizes are conservative given that the water in the project area is shallow, and sound does not propagate as well in shallow water. However, since publication of the proposed IHA, AGDC has determined that it is practicable to conduct SSV, and this final authorization requires AGDC to do so.

Comment 36: The Commission stated that NMFS used source level data from Caltrans (2015) for impact installation of 60-in cast-in-steel-shell (CISS) piles as a proxy for 48-in piles. However, the source levels included in Table I.2.-1 of

Caltrans (2015) for 60-in CISS piles are attenuated source levels, not unattenuated source levels. Those piles were driven within either a cofferdam (see section I.3.2 in Caltrans 2015) or a sound attenuation device (isolation casing with a bubble curtain, see sections I.11 and I.11.2). NMFS indicated in the **Federal Register** notice that AGDC would not be using a sound attenuation device (85 FR 43406; July 16, 2020). Therefore, NMFS' use of the source levels from Caltrans was not appropriate. Caltrans (2015) did not include unattenuated source levels for impact installation of 60-in piles, and the attenuated source levels are less than unattenuated source levels for impact installation of 48-in piles.

For impact installation of 48-in piles, NMFS has consistently used and deemed as best available source levels from Austin *et al.* (2016; see 84 FR 31004; June 28, 2019, 85 FR 19312; April 6, 2020, 85 FR 21404; April 17,

2020, 85 FR 31151; May 22, 2020, 85 FR 40252; July 6, 2020). The source levels of 186.7 decibels (dB) re 1 micro Pascal squared (μPa^2)-sec single-strike (s-s) at 11 m, 198.6 dB re 1 μPa root-mean-square (rms) at 10 m, and 212.5 dB re 1 μPa peak (pk) at 11 m should have been used for AGDC's proposed activities as well (see values for pile IP5 in Tables 9, 11, and 7, respectively, in Austin *et al.* 2016). Those source levels are unattenuated, originate from Alaska, and have been used consistently in other recent IHAs that involve impact installation of 48-in piles. As such, the Commission recommended that NMFS use unattenuated source levels of 186.7 dB re 1 μPa^2 -secs-s at 11 m, 198.6 dB re 1 μPa rms at 10 m, and 212.5 dB re 1 μPa peak at 11 m from Austin *et al.* (2016) for impact installation of 48-in piles rather than the attenuated source levels from Caltrans (2015).

Response: The Commission is correct that the proxy source levels NMFS used

for impact driving 48-in piles (60-in CISS piles) are attenuated source levels, and that AGDC is not using a sound attenuation device. However, NMFS disagrees that the Austin *et al.* (2016) source levels suggested by the commenter are more appropriate than the proxy used in the proposed IHA.

NMFS reviewed numerous source levels for impact installation of 48-in piles normalized to 10 m (Table 1). The proxy source levels used for impact installation of 48-in piles in the proposed authorization (pk, root mean square sound pressure level (SPL_{rms}) and sound exposure level (SEL)) are higher, and therefore more conservative, than the median source level in NMFS' review of available source levels for impact installation of 48-in piles. Given the shallow water depth at the Prudhoe Bay site, we expect that source levels for the AK LNG project will be lower than average. (Note that AGDC will also conduct SSV to verify the zone sizes.)

TABLE 1—ACOUSTIC DATA FROM UNATTENUATED IMPACT INSTALLATION OF 48" STEEL PIPE PILES

Processed data (# of datasets used to calculate the median):	Source dist. (m)	Measured SPL_{pk} (dB re 1 μPa)	Measured SPL_{rms} (dB re 1 μPa)	Measured SEL (dB re 1 $\mu\text{Pa}^2\text{s}$)	Normalized to 10-m SL SPL_{pk} (dB re 1 μPa @ 10 m)	Normalized to 10m SL SPL_{rms} (dB re 1 μPa @ 10 m)	Normalized to 10m SL SEL (dB re 1 $\mu\text{Pa}^2\text{s}$ @ 10 m)	Location	Report
TP#11 (2)	10	207	192	179.5	207	192	179.5	Naval Base Kitsap.	Naval Base Kitsap at Bangor Test Pile Program Acoustic Monitoring Report (I&R 2012); p. 61, 64, 67.
TP#5 (2)	10	207.5	192	180.5	207.5	192	180.5	Naval Base Kitsap.	Naval Base Kitsap at Bangor Test Pile Program Acoustic Monitoring Report (I&R 2012); p. 62, 64, 67.
A3 (3)	10	212.3	198.6	183.1	212.3	198.6	183.1	Columbia River Crossing.	Columbia River Crossing Test Pile Report (David Evans & Associates, 2011); pdf: 97.
A4 (2)	10	213.45	199.65	183.05	213.45	199.65	183.05	Columbia River Crossing.	Columbia River Crossing Test Pile Report (David Evans & Associates, 2011); pdf: 109.
B2 (3)	10	207.1	196.7	182	207.1	196.7	182	Columbia River Crossing.	Columbia River Crossing Test Pile Report (David Evans & Associates, 2011); pdf: 130.
	10	200	183	173	200	183	173	Philadelphia Naval Shipyard.	NAVFAC Pile-driving at Atlantic Fleet Naval Installations (2017); p. 31.
	10	200	185	174	200	185	174	Philadelphia Naval Shipyard.	NAVFAC Pile-driving at Atlantic Fleet Naval Installations (2017); p. 31.
	10	203	187	176	203	187	176	Philadelphia Naval Shipyard.	NAVFAC Pile-driving at Atlantic Fleet Naval Installations (2017); p. 31.

TABLE 1—ACOUSTIC DATA FROM UNATTENUATED IMPACT INSTALLATION OF 48” STEEL PIPE PILES—Continued

Processed data (# of datasets used to calculate the median):	Source dist. (m)	Measured SPL _{pk} (dB re 1 μPa)	Measured SPL _{rms} (dB re 1 μPa)	Measured SEL (dB re 1 μPa ² s)	Normalized to 10-m SL SPL _{pk} (dB re 1 μPa @ 10 m)	Normalized to 10m SL SPL _{rms} (dB re 1 μPa @ 10 m)	Normalized to 10m SL SEL (dB re 1 μPa ² s @ 10 m)	Location	Report
TT-13.5R Mid (9)	10	205	186	174	205	186	174	Naval Base Kitsap.	Naval Base Kitsap at Bangor Trident Support Facilities EHW-2 (2013); p. 94, 101, 107.
IP5	11	212.5	197.9	186.7	213.3278537	198.7278537	187.5278537	Port of Anchorage.	Austin et al. (2016); p. 70-73.
IP6 (off)	12	208.7	193.2	184.5	210.2836249	194.7836249	186.0836249	Port of Anchorage.	Austin et al. (2016); p. 70-73.
IP1	14	213.2	199	185.1	216.1225607	201.9225607	188.0225607	Port of Anchorage.	Austin et al. (2016); p. 70-73.
Median					207.3	193.4	181.3		

Therefore, given that source levels at the project site are likely lower given the water depth, and considering that the 60-in CISS pile attenuated proxy source level is higher than the median source level of other source levels for impact installation of 48-in piles, NMFS has continued to use the initially proposed source levels to calculate the Level A and Level B harassment zones for the final authorization. NMFS intends to update the Level A and Level B harassment zone sizes with the verified zone sizes, and potentially the associated shutdown zones, as appropriate. It is likely that the SSV will reflect smaller zone sizes, which would therefore be easier for protected species observers (PSOs) to observe a larger portion of the zones.

Comment 37: The Commission recommended that NMFS (1) increase the (a) Level A harassment zones from 1,575 m to 2,249 m for LF cetaceans, from 56 m to 80 m for MF cetaceans, and from 843 m to 1,204 m for phocids, (b) shutdown zones from 1,600 m to at least 2,250 m for LF cetaceans and from 50 m to at least 80 m for MF cetaceans, and (c) Level B harassment zone from 2,154 m to 3,754 m during impact installation of 48-in piles; (2) revise the numbers of Level A and B harassment takes during impact installation of 48-in piles; (3) include Level A harassment takes of bowhead whales during impact installation of 48-in piles or prohibit AGDC from conducting such activities at night or in low-visibility conditions; and (4) ensure the Level A harassment takes were estimated correctly for MF cetaceans and phocids during all proposed activities.

Response: As stated in NMFS’ response to Comment 36, NMFS did not adopt the commenter’s recommended source level change for impact installation of 48-in piles. Therefore, it is not appropriate to adopt the

recommended changes to the Level A and Level B harassment zones and shutdown zones that were based upon those recommended source level changes, nor is it appropriate to revise the number of Level A and Level B harassment takes that are estimated to occur during impact installation of 48-in piles, as those recommendations are based upon a change to the Level A and Level B harassment zone sizes.

Take by Level A harassment of bowhead whale during any activity, including impact installation of 48-in piles, is still not expected to occur given the water depth in the Level A harassment zone. Further, there have been no bowhead whales observed in Block 1a (which encompasses the area between the shoreline and the barrier islands, including Prudhoe Bay) during ASAMM surveys since they began in 2016, further supporting NMFS’ conclusion bowhead whales are not expected to occur within the Level A harassment zone during construction. Additionally, in the rare event that a bowhead whale were to enter the Level A harassment zone, it is likely that PSOs would detect the animal and that a shutdown would be implemented, preventing a take by Level A harassment. Therefore, Level A harassment take of bowhead whale is not included in this authorization. The final authorization does not prohibit AGDC from conducting construction activities at night or in low-visibility conditions, but notes that AGDC will use NVD and IR during those conditions. Additionally, given that most construction is expected to occur during the open water period when daylight is continuous (July and August), or the majority of the time (>70 percent of the time in September), the majority of construction will occur during daylight hours, even with work occurring 24-hours per day. (Although,

NMFS recognizes that other conditions, such as fog, could limit visibility.)

NMFS updated the Level A harassment take calculations for phocids and beluga whale by correcting the zone sizes used in the calculation. The updated calculation did not result in a change to the authorized Level A harassment take of beluga whale, but the authorized Level A harassment take of ringed seal, spotted seal, and bearded seal decreased. Please see the Estimated Take section for additional information on changes to the take estimate.

Comment 38: The Commission recommended that NMFS (1) have its experts in underwater acoustics and bioacoustics review and finalize as soon as possible, its recommended proxy source levels for impact pile driving of the various pile types and sizes, (2) compile and analyze the source level data for vibratory pile driving of the various pile types and sizes in the near term, and (3) ensure action proponents use consistent and appropriate proxy source levels in all future rulemakings and proposed IHAs. If a subset of source level data is currently available (*i.e.*, vibratory pile driving of 24-in steel piles), those data should be reviewed immediately and used—the data should not be retained until the other vibratory source levels are finalized.

Response: NMFS concurs with the Commission’s recommendation and has prioritized these efforts.

Comment 39: A commenter stated that NMFS’ finding that there would be no impacts on subsistence harvest is arbitrary.

Response: NMFS did not find that there would be no impacts to subsistence harvests. Rather, NMFS found that, based on the description of the specified activity, the mitigation measures described to minimize adverse effects on the availability of marine mammals for subsistence purposes, and

the planned mitigation and monitoring measures, there will not be an unmitigable adverse impact on subsistence uses from AGDC's planned activities. NMFS has described the potential impacts to subsistence harvests in the Effects of Specified Activities on Subsistence Uses of Marine Mammals section of this notice, and the notice of the proposed IHA, and described the mitigation for subsistence harvests in the Mitigation for Subsistence Uses of Marine Mammals or Plan of Cooperation section of both notices.

Comment 40: A commenter stated that the AK LNG activities will likely adversely impact the subsistence uses of the Native Village of Nuiqsut, which enacted Resolution 16–04 resolving “that the United States should not schedule or hold any new oil and gas leases in the Beaufort or Chukchi Seas” because the threat of oil and gas activities to subsistence uses, among other reasons. Even if pile driving activities are ceased during the bowhead whale hunt, vessel activities will adversely impact Nuiqsut's fall bowhead whale hunt and possibly other marine mammal harvest activities in the Beaufort Sea. However, NMFS failed to consider the impacts of vessels.

The commenter further stated that the decision that there will be no impacts on Kaktovik subsistence use because the hunting grounds are farther off is arbitrary because the take authorization affects the same stocks of marine mammals that are used by Kaktovik hunters.

Response: The commenter's mention of Resolution 16–04 is inapplicable to NMFS' action as it relates to issues outside of NMFS' authority. NMFS is responsible for authorizing the take of marine mammals incidental to certain specified activities, but does not allow or disallow the activities themselves. Also, the AK LNG project is not the same as an oil and gas lease in the Beaufort or Chukchi Sea.

As the commenter noted, the proposed and final IHAs include a measure requiring AGDC to cease pile driving during the Nuiqsut whaling season (approximately August 25–September 15). Additionally, the final IHA includes a measure that requires AGDC to limit barges to waters landward of Cross Island during the Nuiqsut whaling season in an effort to avoid any potential impacts on subsistence uses.

Regarding impacts on Kaktovik subsistence hunts, while the commenter is correct that the IHA does authorize the take of stocks of marine mammals which are harvested by Kaktovik

hunters, the subsistence activities that Kaktovik engages in are unlikely to be affected in any of the ways described in the first paragraph of the Unmitigable Adverse Impact Analysis and Determination section of this notice. It is unlikely that the planned activities would have any effects on the use of marine mammals for subsistence by residents of Kaktovik given the distance from Kaktovik and Kaktovik's very limited use of waters offshore of Prudhoe Bay, and considering that the planned activities would occur in an already developed area. The best available information supports NMFS' finding that AGDC's activities will not result in an unmitigable adverse impact on subsistence uses as defined in 50 CFR 216.103.

Please see NMFS' response to Comments 13 and 14 for a discussion of potential impacts of vessel transit.

Comment 41: The Commission stated that given the lack of stakeholder meetings and the limited number of entities contacted to date, it recommends that, before further action is taken on issuance of an IHA, NMFS require AGDC to (1) revise its POC to include a summary of all meetings held to date with communities, subsistence groups, and co-management organizations, (2) make available to the public and North Slope communities on a publicly accessible website its Communication Plan detailing how it will communicate its project plans and seek input on proposed mitigation and monitoring measures from all potentially affected communities, subsistence groups, and co-management organizations well in advance of the commencement of construction activities, and most importantly, (3) include in the Communication Plan measures for conducting timely and effective two-way communications with affected subsistence users immediately prior to, during, and after construction activities.

Response: The POC has been updated with more information, including meeting summaries (Appendix A) and plans for continued communication with communities and marine mammal co-management organizations. AGDC travelled to Nuiqsut in 2018 and 2019, and has had individual outreach to Nuiqsut community leaders. There has also been substantial engagement with the AEWC over the past three years, which will continue as the Project progresses. The POC has been updated to reflect this communication. The projected start date is two years from the date of submission, so AGDC has ample time to coordinate directly with the Village of Nuiqsut, Whaling Captains

Associations for Nuiqsut, Kaktovik and Utqiagvik and other marine mammal co-management organizations and has committed to do so. Further, AGDC has committed to ongoing work sessions with a working group of the AEWC. AGDC is committed to conducting timely and effective two-way communication with subsistence users before, during and after construction activities, and will work with subsistence groups and co-management organizations to create a Communications Plan, which it will post to the AK LNG project website. Please see the POC for additional information.

Comment 42: A commenter stated that for the reasons stated in its comments, supplemental comments and petition for rehearing on FERC's Order granting authorization for the AK LNG project, NMFS cannot rely on the project's flawed EIS or inadequate Biological Opinion. The commenter stated that additionally for the IHA proposed here, NMFS must define a different purpose and need that is consistent with its duties to protect marine mammals, and it must evaluate different alternatives that would mitigate adverse effects on Arctic marine mammals.

Response: Consistent with the regulations published by the Council on Environmental Quality (CEQ), it is common and sound NEPA practice for NMFS to participate as a cooperating agency and adopt a lead agency's (in this case FERC) NEPA analysis when, after independent review, NMFS determines the document to be sufficient in accordance with 40 CFR 1506.3. Specifically here, NMFS is satisfied that the Alaska LNG Project Final EIS adequately addresses the impacts of issuing the MMPA IHA and that NMFS' comments and concerns have been adequately addressed. NMFS' early participation in the NEPA process and role in shaping and informing analyses using its special expertise ensured that the analysis in the Alaska LNG Project Final EIS is sufficient for purposes of NMFS' own NEPA obligations related to its issuance of incidental take authorizations under the MMPA.

Regarding the purpose and need, NMFS' purpose and need is consistent with its duties to protect marine mammals. It is clearly stated in Footnote 8 (p. 1–11) of Volume 1 of the Alaska LNG Project Final EIS, stating “The purpose of NMFS's action, which is a direct outcome of AGDC's request for authorization to take marine mammals incidental to construction activities in Cook Inlet and Prudhoe Bay, is to evaluate AGDC's applications pursuant

to the MMPA and 50 CFR 216 and to issue incidental take authorizations (ITAs), if appropriate. The need for NMFS' action is to consider the impacts of AGDC's activities on marine mammals and ultimately allow AGDC to conduct its activities in compliance with the MMPA if the requirements of section 101(a)(5)(A) and (D) are satisfied." NMFS' purpose and need are supported by the analysis in FERC's Alaska LNG Final EIS for AGDC's proposed activities associated with the AK LNG Project.

Regarding the alternatives, NMFS' involvement in development of the Alaska LNG Project Final EIS and role in evaluating the effects of incidental take under the MMPA ensured that the Alaska LNG Project Final EIS includes adequate analysis of a reasonable range of alternatives. For NMFS, declining to issue the requested ITA to AGDC constitutes the NMFS No Action Alternative, which is consistent with our statutory obligation under the MMPA to grant or deny ITA requests. Since the underlying activities would not be carried out, as indicated in the Alaska LNG Final EIS (Executive Summary, page ES-6), the requested take of marine mammals would not occur. NMFS considers the No Action Alternative to be the environmentally preferable alternative as negative impacts to marine mammals would be avoided. If no construction activities occur, no disturbance to marine mammals would occur from pile driving associated with construction of the LNG facilities and pipelines/transmission lines.

The other alternative NMFS considers is its Proposed Action, which called for issuance of an ITA to the applicant, AGDC, to authorize the requested take subject to specified requirements, including mitigation, monitoring and reporting requirements. As part of this alternative, and through the public and agency review processes under NEPA and MMPA, NMFS considers a range of mitigation measures to carry out its duty to identify other means of effecting the least practicable adverse impact on the species or stocks that are the subject of the ITA request. For AGDC's construction activities in Prudhoe Bay, these measures were initially identified in the proposed IHA (85 FR 43382; July 16, 2020) and modified for this final IHA in response to public comment and agency review. The Proposed Action alternative considered by NMFS is consistent with the Proposed Action (Preferred Alternative) evaluated by FERC, as it would provide the ITAs necessary to achieve the activities identified in that alternative and

analyzed in the Alaska LNG Project Final EIS.

Finally, NMFS' Proposed Action to issue ITAs to AGDC for construction activities associated with the AK LNG Project and FERC's Proposed Action (also the Preferred Alternative) effectively meet NMFS' stated purpose and need for acting. NMFS has an obligation to issue a requested ITA if certain statutory and regulatory determinations are made after providing for adequate public review and comment concerning the ITA request. Denying the application, as would be required under the No Action Alternative, would be contrary to NMFS' responsibilities, given the results of the analysis conducted under the MMPA, and would thus not support NMFS' ability to meet its purpose and need for acting.

This approach to evaluating a reasonable range of alternatives is consistent with NMFS policy and practice for issuing MMPA incidental take authorizations. NMFS has independently reviewed and evaluated the Alaska LNG Project Final EIS, including the range of alternatives, and determined that the EIS fully satisfies NMFS' NEPA obligations related to its decision to issue this IHA, and we have adopted it.

Regarding the Biological Opinion, NMFS consulted internally with NMFS' Alaska Regional Office (AKRO). AKRO conducted a thorough analysis and we refer any questions or comments on that document to the AKRO.

Please see the mitigation-related comments for a response to the commenter's recommendations for inclusion of measures that would mitigate adverse effects on Arctic marine mammals.

Comment 43: The Commission stated that although operators are generally able to complete the installation of a pile if visibility becomes limited due to nightfall or deteriorating weather conditions, NMFS does not typically allow pile driving to occur 24-hours a day in its authorizations. It is not clear whether AGDC has discussed its plans to conduct pile driving at night with local communities, as no reference was made to nighttime pile driving in the outreach materials provided in the POC. Concerns have been raised by Native Alaskan communities about activities occurring "all night long" for other projects. Restricting pile driving to daylight hours would help to ensure that AGDC is effecting the least practicable adverse impact on affected species. The Commission recommended that NMFS include in the final authorization the requirement that

AGDC conduct pile driving activities during daylight hours only.

Response: NMFS analyzes the action that an applicant has proposed. While many applicants propose to conduct pile driving during daylight hours only, in which case NMFS discusses that in the **Federal Register** notice, and sometimes elects to include it in the IHA itself, AGDC proposed to conduct pile driving up to 24-hours per day.

Work is expected to start in July, when there are 24 hours of available sunlight for visibility, so the crews will do their best to get as much done in the early months of the project as possible. As the available daylight wanes and fall approaches, AGDC will test NVDs to detect marine mammals in low visibility. If these devices do not prove to be effective in detecting marine mammals, lighting will be used to monitor the immediate area around the pile driving work.

The open water season is extremely short, and therefore, the ability to work 24-hours per day is a key component to AGDC's ability to complete construction on time, particularly given the requirement for AGDC to shut down work during Nuiqsut whaling. Shorter workdays would likely extend the number of days required for the work (extending the overall duration of impacts on marine mammals), and could require a second work season and involve significant equipment and manpower expense, which is impracticable.

In AGDC's most recent project update to AEW in the Third Triannual Meeting (10/28/2020), AGDC discussed pile driving plans, including the 24 hour work day.

Comment 44: To ensure that seal lairs in the construction area are identified and avoided as proposed, the Commission recommended that NMFS include in the final authorization the requirement that AGDC (1) use an experienced subsistence advisor, and consider the use of trained dogs, to detect seal lairs before construction activities begin and (2) require construction crews to avoid seal lairs by at least 150 m.

Response: As stated in the notice of the proposed IHA, AGDC plans to consult an experienced subsistence advisor for detection of seal lairs during construction activities that occur in winter. The advisor would survey areas within a buffer zone of Dock Head 4 (DH4) where water depth is greater than 3 m (10 ft) to identify potential ringed seal structures before activities begin. AGDC will avoid identified ringed seal structures by a minimum of 150 m (500 ft). The subsistence advisor and 150 m

buffer requirements have been added to the final IHA.

Although trained dogs may be effective in identifying seals, there are a limited number of trained dogs available. Further, Alaska Native subsistence hunters have previously indicated that polar bears often follow the scent of the dogs to hunt those lairs (pers. comm., Sheyna Wisdom). Therefore, NMFS has not required the use of dogs for detection of seal lairs as suggested by the commenter.

Comment 45: The Commission recommended that NMFS (1) reinforce that AGDC keep a running tally of the total takes, based on observed and extrapolated takes, for Level A and B harassment consistent with condition 4(h) of the final authorization, (2) include condition 6(b)(xix) in the final authorization, and, if necessary, (3) provide AGDC a simple example of how to extrapolate takes to estimate the number of total takes.

Response: The IHA indicates the number of takes authorized for each species. We agree that AGDC must ensure they do not exceed authorized takes, but do not concur with the recommendation to keep a running tally of extrapolated takes, as that is not necessary to ensure compliance with the IHA. CFR 216.108(c) requires a monitoring program to “document or estimate the actual level of take.” The final authorization includes measure 6(b)(xix) from the proposed IHA, though it is now measure 6(b)(xviii) and NMFS slightly modified it to clarify that rather than precisely extrapolating the observed take, AGDC will estimate potential exposures within the entire harassment zones based upon the number of observed exposures and the percentage of the Level A or Level B harassment zone that was not visible. NMFS is not prescribing an exact method for how AGDC should calculate the estimate of total potential takes.

Comment 46: The Commission stated that it has raised ongoing concerns regarding NMFS’s renewal process in the past few years, and notes that although NMFS responded generally to those concerns just recently, the Commission has not yet had time to consider fully whether and how it plans to respond. For purposes of its comment letter regarding this IHA, the Commission recommended that NMFS refrain from issuing a renewal for any authorization unless it is consistent with the procedural requirements specified in section 101(a)(5)(D)(iii) of the MMPA.

Response: In prior responses to comments about IHA Renewals (e.g., 84 FR 52464; October 02, 2019 and 85 FR

53342, August 28, 2020), NMFS has explained how the Renewal process, as implemented, is consistent with the statutory requirements contained in section 101(a)(5)(D) of the MMPA, 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 as a general matter.

Comment 47: A commenter stated that NMFS should avoid a one-year renewal. It further stated that the potential extension and overlap of activities should be avoided.

Response: The commenter does not state what it is referring to regarding “overlap of activities” that it suggests should be avoided by not issuing a renewal. NMFS makes the decision of whether or not to issue a Renewal after one is requested based on current information and the best available science.

Comment 48: The Commission stated that NMFS’ review processes (including its early review team meetings) are not adequately identifying and evaluating whether appropriate source levels, Level A harassment inputs, modeling methodologies, Level A and B harassment zones, densities, group size estimates, take estimates, shutdown zones, etc. have been proposed. The Commission recommended that NMFS make a concerted effort to review applications, **Federal Register** notices, and draft and final authorizations more thoroughly to minimize inaccuracies and ensure transparency for the public. In this instance, the information provided to the PRP was not accurate and the panel’s review of AGDC’s monitoring plan as required under section 101(a)(5)(D)(ii)(III) may have been compromised. NMFS should provide the PRP with the revised Level A and B harassment zones and shutdown zones and allow for additional review and comments before issuing any IHA to AGDC. NMFS also should consider whether the inaccuracies are sufficient to warrant revision and re-publication of the proposed IHA.

Response: While we acknowledge that errors are sometimes made, we disagree with the Commission’s assertion that NMFS’ review of the issues raised is broadly inadequate. Nonetheless, we continue to look for ways to improve our methods, analyses, and review process. Regarding the specific example raised, as explained in response to Comment 36, NMFS disagrees with the

Commission regarding their recommended source level revision, and has not incorporated that recommendation into this final IHA. Therefore, the Level A and Level B harassment zones and the shutdown zones did not change, and the recommendation to provide the PRP with updated Level A and Level B harassment zones and shutdown zones is not necessary, nor is re-publication of the proposed IHA.

Changes From the Proposed IHA to Final IHA

The proposed IHA indicated that the authorization would be effective from July 1, 2022 to June 30, 2023. However, AGDC has since indicated that it does not expect to begin construction prior to July 1, 2023; therefore, this final IHA is effective from July 1, 2023 to July 1, 2024.

NMFS also added several mitigation and monitoring requirements to the final IHA in consideration of public comments received. NMFS added an explicit requirement for AGDC to abide by its POC. Additionally, NMFS added a measure that requires AGDC to consult an experienced subsistence advisor for detection of ringed seal lairs during winter construction activities, should they occur, and a measure requiring AGDC to implement a 150 m buffer between identified ringed seal lairs and construction activities. Both measures related to ringed seal lairs were discussed in the notice of the proposed IHA as measures that AGDC intended to implement, but had not been included in the proposed IHA. The final IHA also includes a requirement for aircraft to transit at a minimum altitude of 457 m (1,500 ft) or higher to the extent practicable, as well as a shutdown zone for screeding activities. Both the aircraft and screeding measures were included in the biological opinion, which AGDC is required to follow, as stated in both the proposed and final IHAs. The final IHA also includes a measure that requires vessels to transit landward of Cross Island during the entirety of the Nuiqsut whaling season (approximately August 25–September 15, though the exact dates may change). This measure was already included in the POC.

Since publication of the proposed IHA, through discussions with the AEW and NMFS, AGDC has determined that it is practicable to increase the acoustic monitoring it will conduct. The final IHA requires AGDC to conduct SSV for pile driving, and includes additional requirements for an acoustic monitoring plan and acoustic monitoring report, including some reporting metrics recommended by the

PRP. The IHA allows NMFS to update the Level A and Level B harassment zones and shutdown zones, as appropriate, pending review and approval of the results of the acoustic monitoring. Additionally, the final IHA requires AGDC to deploy three hydrophones during construction in the open-water season, rather than just one, as stated in the proposed IHA. AGDC will deploy the hydrophones three days prior to the start of construction, and they will remain deployed through construction and for three days after the completion of construction. AGDC will still deploy just one hydrophone during the ice-cover season, should AGDC need conduct construction activities during that time. As stated in the proposed IHA, these hydrophones will be used for PAM of marine mammals, but will not be monitored in real time or used for mitigation. The final IHA also includes an additional reporting measure related to PAM for marine mammals which was suggested by the PRP, requiring AGDC to report marine mammal detection rates from PAM, summarized into daily or weekly periods. AGDC will include this information in its acoustic monitoring report, but is not required to submit this information to NMFS on a daily or weekly basis throughout the project duration.

The final IHA includes several slight modifications to the take estimate. NMFS updated the Level A harassment take calculations for phocids and beluga whale by correcting the zone sizes used in the calculation. The updated calculation did not result in a change to the authorized Level A harassment take of beluga whale, but the authorized Level A harassment take of ringed seal, spotted seal, and bearded seal decreased. Additionally, NMFS updated the Level B harassment take estimate for beluga whales to account for an increased density due to the

incorporation of recently-available 2019 ASAMM survey data (Clarke *et al.*, 2020). The resulting Level B harassment take estimate for beluga whales increased to 55 Level B harassment takes in the final IHA from the 31 Level B harassment takes estimated in the proposed IHA. Please see the Estimated Take section for additional information on changes to the take estimate.

Finally, since publication of the proposed IHA, NMFS published a proposed rule for the Designation of Critical Habitat for the Beringia Distinct Population Segment (DPS) of the Bearded Seal (86 FR 1433; January 8, 2021), and a revised proposed rule for the Designation of Critical Habitat for the Arctic Subspecies of the Ringed Seal (86 FR 1452; January 8, 2021). Please see the Description of Marine Mammals in the Area of Specified Activities section for additional information.

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>). Additional information may be found in the Aerial Survey of Arctic Marine Mammals (ASAMM) reports, which are available online at <https://www.fisheries.noaa.gov/alaska/marine-mammal-protection/aerial-surveys-arctic-marine-mammals>.

Table 2 lists all species or stocks for which take is expected and authorized for this action, and summarizes information related to the population or stock, including regulatory status under the MMPA and ESA and potential biological removal (PBR), where known. For taxonomy, we follow Committee on Taxonomy (2019). PBR is defined by the MMPA as the maximum number of animals, not including natural mortalities, that may be removed from a marine mammal stock while allowing that stock to reach or maintain its optimum sustainable population (as described in NMFS's SARs). While no mortality is anticipated or authorized here, PBR and annual serious injury and mortality from anthropogenic sources are included here as gross indicators of the status of the species and other threats.

Marine mammal abundance estimates presented in this document represent the total number of individuals that make up a given stock or the total number estimated within a particular study or survey area. NMFS' stock abundance estimates for most species represent the total estimate of individuals within the geographic area, if known, that comprises that stock. For some species, this geographic area may extend beyond U.S. waters. All managed stocks in this region are assessed in NMFS' U.S. Pacific and Alaska SARs (e.g., Muto *et al.*, 2019). All values presented in Table 2 are the most recent available at the time of publication and are available in the 2019 Pacific and Alaska SARs (Carretta *et al.*, 2019; Muto *et al.*, 2019) and draft 2020 Alaska SARs (published since publication of the proposed IHA and available online at: <https://www.fisheries.noaa.gov/national/marine-mammal-protection/draft-marine-mammal-stock-assessment-reports>).

TABLE 2—SPECIES FOR WHICH TAKE IS REASONABLY LIKELY TO OCCUR

Common name	Scientific name	Stock	ESA/MMPA status; strategic (Y/N) ¹	Stock abundance (CV, N _{min} , most recent abundance survey) ²	PBR	Annual M/SI ³
Order Cetartiodactyla—Cetacea—Superfamily Mysticeti (baleen whales)						
Family Eschrichtiidae: Gray whale	<i>Eschrichtius robustus</i>	Eastern North Pacific	-/-; N	26,960 (0.05, 25,849, 2016)	801	131
Family Balaenidae: Bowhead whale	<i>Balaena mysticetus</i>	Western Arctic	E/D; Y	16,820 (0.052, 16,100, 2011).	161	56
Superfamily Odontoceti (toothed whales, dolphins, and porpoises)						
Family Delphinidae: Beluga whale	<i>Delphinapterus leucas</i>	Bearfoot Sea	-/-; N	39,258 (0.229, NA, 1992)	UND	102
		Eastern Chukchi Sea	-/-; N	13,305 (0.51, 8,875, 2017) ..	178	55

TABLE 2—SPECIES FOR WHICH TAKE IS REASONABLY LIKELY TO OCCUR—Continued

Common name	Scientific name	Stock	ESA/ MMPA status; strategic (Y/N) ¹	Stock abundance (CV, N _{min} , most recent abundance survey) ²	PBR	Annual M/SI ³
Order Carnivora—Superfamily Pinnipedia						
Family Phocidae (earless seals):						
Ringed seal	<i>Phoca (pusa) hispida</i>	Arctic	T/D; Y	see SAR (see SAR, see SAR, 2012–2013).	6,459	863
Spotted seal	<i>Phoca largha</i>	Bering	-/-; N	461,625 (see SAR, 423,237, 2013).	25,394	5,254
Bearded seal	<i>Erignathus barbatus</i>	Beringia	T/D; Y	see SAR (see SAR, see SAR, 2012–2013).	See SAR	6,709

¹ Endangered Species Act (ESA) status: Endangered (E), Threatened (T)/MMPA status: Depleted (D). A dash (-) indicates that the species is not listed under the ESA or designated as depleted under the MMPA. Under the MMPA, a strategic stock is one for which the level of direct human-caused mortality exceeds PBR or which is determined to be declining and likely to be listed under the ESA within the foreseeable future. Any species or stock listed under the ESA is automatically designated under the MMPA as depleted and as a strategic stock.

² NMFS marine mammal stock assessment reports online at: <https://www.fisheries.noaa.gov/national/marine-mammal-protection/marine-mammal-stock-assessments>. CV is coefficient of variation; N_{min} is the minimum estimate of stock abundance.

³ These values, found in NMFS's SARs, represent annual levels of human-caused mortality plus serious injury from all sources combined (e.g., commercial fisheries, ship strike).

As indicated above, all six species (with seven managed stocks) in Table 2 temporally and spatially co-occur with the activity to the degree that take is reasonably likely to occur, and we have authorized take. While a harbor porpoise was sighted in the 2017 ASAMM survey (Clarke *et al.*, 2018), the spatial occurrence of harbor porpoise is such that take is not expected to occur, and they are not discussed further beyond the explanation provided here. Harbor porpoise (*Phocoena phocoena*) are considered to be extremely rare in the Beaufort Sea, particularly in the project area (Megan Ferguson, pers. comm., November 2019).

In addition, the polar bear may be found in Prudhoe Bay. However, polar bears are managed by the U.S. Fish and Wildlife Service and are not considered further in this document.

A detailed description of the of the species likely to be affected by AGDC's project, including brief introductions to the species and relevant stocks as well as available information regarding population trends and threats, and information regarding local occurrence, were provided in the **Federal Register** notice for the proposed IHA (85 FR 43382; July 16, 2020); since that time, we are not aware of any changes in the status of these species and stocks, other than the proposed critical habitat designations under the ESA for the Beringia DPS of the Bearded Seal and the Arctic Subspecies of the Ringed Seal, discussed below; therefore, other than the critical habitat discussion, detailed descriptions are not provided here. Please refer to that **Federal Register** notice for these descriptions. Please also refer to NMFS' website (<https://www.fisheries.noaa.gov/find->

species) for generalized species accounts.

Critical Habitat

On January 8, 2021, NMFS published a proposed rule for the Designation of Critical Habitat for the Beringia DPS of the Bearded Seal (86 FR 1433). NMFS identified the physical and biological features essential to the conservation of the species: (1) Sea ice habitat suitable for whelping and nursing, which is defined as areas with waters 200 m or less in depth containing pack ice of at least 25 percent concentration and providing bearded seals access to those waters from the ice; (2) sea ice habitat suitable as a platform for molting, which is defined as areas with waters 200 m or less in depth containing pack ice of at least 15 percent concentration and providing bearded seals access to those waters from the ice; (3) primary prey resources to support bearded seals in waters 200 m or less in depth: benthic organisms, including epifaunal and infaunal invertebrates, and demersal and schooling pelagic fishes; and (4) acoustic conditions that allow for effective communication by bearded seals for breeding purposes within waters used by breeding bearded seals. The proposed designation under the ESA comprises a specific area of marine habitat in the Bering, Chukchi, and Beaufort seas, extending from mean lower low water (MLLW) to a depth of 200 m within the U.S. Exclusive Economic Zone (EEZ), including this construction project's Level A and Level B harassment zones (see 86 FR 1433, January 8, 2021 for additional detail and a map of the proposed area).

On January 8, 2021, NMFS also published a revised proposed rule for the Designation of Critical Habitat for

the Arctic Subspecies of the Ringed Seal (86 FR 1452). This proposed rule revises NMFS' December 9, 2014, proposed designation of critical habitat for the Arctic subspecies of the ringed seal under the ESA. NMFS identified the physical and biological features essential to the conservation of the species: (1) Snow-covered sea ice habitat suitable for the formation and maintenance of subnivean birth lairs used for sheltering pups during whelping and nursing, which is defined as areas of seasonal landfast (shorefast) ice and dense, stable pack ice, excluding any bottom-fast ice extending seaward from the coastline (typically in waters less than 2 m deep), that have undergone deformation and contain snowdrifts of sufficient depth, typically at least 54 cm deep; (2) Sea ice habitat suitable as a platform for basking and molting, which is defined as areas containing sea ice of 15 percent or more concentration, excluding any bottom-fast ice extending seaward from the coastline (typically in waters less than 2 m deep); and (3) Primary prey resources to support Arctic ringed seals, which are defined to be Arctic cod, saffron cod, shrimps, and amphipods. The revised proposed designation comprises a specific area of marine habitat in the Bering, Chukchi, and Beaufort seas, extending from MLLW to an offshore limit within the U.S. EEZ, including this construction project's Level A and Level B harassment zones (see 86 FR 1452; January 8, 2021 for additional detail and a map of the proposed area).

Potential Effects of Specified Activities on Marine Mammals and Their Habitat

The effects of underwater noise from AGDC's construction activities have the

potential to result in behavioral harassment of marine mammals in the vicinity of the survey area. The notice of proposed IHA (85 FR 43382; July 16, 2020) included a discussion of the effects of anthropogenic noise on marine mammals and the potential effects of underwater noise from AGDC's construction activities on marine mammals and their habitat. That information and analysis is incorporated by reference into this final IHA determination and is not repeated here; please refer to the notice of proposed IHA (85 FR 43382; July 16, 2020).

Estimated Take

This section provides an estimate of the number of incidental takes authorized through this IHA, which will inform both NMFS' consideration of "small numbers" and the negligible impact determination.

Harassment is the only type of take expected to result from these activities. Except with respect to certain activities not pertinent here, section 3(18) of the MMPA defines "harassment" as any act of pursuit, torment, or annoyance, which (i) has the potential to injure a marine mammal or marine mammal stock in the wild (Level A harassment); or (ii) has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering (Level B harassment). Authorized takes would primarily be by Level B harassment, as use of the acoustic source (*i.e.*, vibratory and impact pile driving) has the potential to result in disruption of behavioral patterns for individual marine mammals. There is also some potential for auditory injury (Level A harassment) to result, primarily for phocids, due to their lack of visibility and the size of the Level A harassment zones. Auditory injury is unlikely to occur to cetaceans for the reasons described in the *Take Calculation and Estimation* section,

below. The mitigation and monitoring measures are expected to minimize the severity of the taking to the extent practicable.

As described previously, no mortality is anticipated or authorized for this activity. Below we describe how the take is estimated.

Generally speaking, we estimate take by considering: (1) Acoustic thresholds above which NMFS believes the best available science indicates marine mammals will be behaviorally harassed or incur some degree of permanent hearing impairment; (2) the area or volume of water that will be ensonified above these levels in a day; (3) the density or occurrence of marine mammals within these ensonified areas; and, (4) and the number of days of activities. We note that while these basic factors can contribute to a basic calculation to provide an initial prediction of takes, additional information that can qualitatively inform take estimates is also sometimes available (*e.g.*, previous monitoring results or average group size). Below, we describe the factors considered here in more detail and present the take estimate.

Acoustic Thresholds

NMFS recommends the use of acoustic thresholds that identify the received level of underwater sound above which exposed marine mammals would be reasonably expected to be behaviorally harassed (equated to Level B harassment) or to incur PTS of some degree (equated to Level A harassment).

Level B Harassment for non-explosive sources—Though significantly driven by received level, the onset of behavioral disturbance from anthropogenic noise exposure is also informed to varying degrees by other factors related to the source (*e.g.*, frequency, predictability, duty cycle), the environment (*e.g.*, bathymetry), and the receiving animals (hearing, motivation, experience, demography, behavioral context) and can be difficult to predict (Southall *et*

al., 2007, Ellison *et al.*, 2012). Based on what the available science indicates and the practical need to use a threshold based on a factor that is both predictable and measurable for most activities, NMFS uses a generalized acoustic threshold based on received level to estimate the onset of behavioral harassment. NMFS predicts that marine mammals are likely to be behaviorally harassed in a manner we consider Level B harassment when exposed to underwater anthropogenic noise above received levels of 120 dB re 1 μPa (rms) for continuous (*e.g.*, vibratory pile-driving, drilling) and above 160 dB re 1 μPa (rms) for non-explosive impulsive (*e.g.*, seismic airguns) or intermittent (*e.g.*, scientific sonar) sources.

AGDC's construction activity includes the use of continuous (vibratory pile driving) and impulsive (impact pile driving) sources, and therefore the 120 and 160 dB re 1 μPa (rms) are applicable.

Level A harassment for non-explosive sources—NMFS' Technical Guidance for Assessing the Effects of Anthropogenic Sound on Marine Mammal Hearing (Version 2.0) (Technical Guidance, 2018) identifies dual criteria to assess auditory injury (Level A harassment) to five different marine mammal groups (based on hearing sensitivity) as a result of exposure to noise from two different types of sources (impulsive or non-impulsive). AGDC's construction activity includes the use of impulsive (impact pile driving) and non-impulsive (vibratory pile driving) sources.

These thresholds are provided in the table below. The references, analysis, and methodology used in the development of the thresholds are described in NMFS 2018 Technical Guidance, which may be accessed at <https://www.fisheries.noaa.gov/national/marine-mammal-protection/marine-mammal-acoustic-technical-guidance>.

TABLE 3—THRESHOLDS IDENTIFYING THE ONSET OF PERMANENT THRESHOLD SHIFT

Hearing group	PTS onset acoustic thresholds* (received level)	
	Impulsive	Non-impulsive
Low-Frequency (LF) Cetaceans	Cell 1: L _{pk,flat} : 219 dB; L _{E,LF,24h} : 183 dB	Cell 2: L _{E,LF,24h} : 199 dB.
Mid-Frequency (MF) Cetaceans	Cell 3: L _{pk,flat} : 230 dB; L _{E,MF,24h} : 185 dB	Cell 4: L _{E,MF,24h} : 198 dB.
High-Frequency (HF) Cetaceans	Cell 5: L _{pk,flat} : 202 dB; L _{E,HF,24h} : 155 dB	Cell 6: L _{E,HF,24h} : 173 dB.
Phocid Pinnipeds (PW) (Underwater)	Cell 7: L _{pk,flat} : 218 dB; L _{E,PW,24h} : 185 dB	Cell 8: L _{E,PW,24h} : 201 dB.
Otariid Pinnipeds (OW) (Underwater)	Cell 9: L _{pk,flat} : 232 dB; L _{E,OW,24h} : 203 dB	Cell 10: L _{E,OW,24h} : 219 dB.

* Dual metric acoustic thresholds for impulsive sounds: Use whichever results in the largest isopleth for calculating PTS onset. If a non-impulsive sound has the potential of exceeding the peak sound pressure level thresholds associated with impulsive sounds, these thresholds should also be considered.

Note: Peak sound pressure (L_{pk}) has a reference value of 1 μ Pa, and cumulative sound exposure level (L_E) has a reference value of 1 μ Pa²s. In this Table, thresholds are abbreviated to reflect American National Standards Institute standards (ANSI 2013). However, peak sound pressure is defined by ANSI as incorporating frequency weighting, which is not the intent for this Technical Guidance. Hence, the subscript “flat” is being included to indicate peak sound pressure should be flat weighted or unweighted within the generalized hearing range. The subscript associated with cumulative sound exposure level thresholds indicates the designated marine mammal auditory weighting function (LF, MF, and HF cetaceans, and PW and OW pinnipeds) and that the recommended accumulation period is 24 hours. The cumulative sound exposure level thresholds could be exceeded in a multitude of ways (*i.e.*, varying exposure levels and durations, duty cycle). When possible, it is valuable for action proponents to indicate the conditions under which these acoustic thresholds will be exceeded.

Ensonified Area

Here, we describe operational and environmental parameters of the activity that will feed into identifying the area ensonified above the acoustic thresholds, which include source levels and transmission loss coefficient.

The sound field in the project area is the existing background noise plus additional construction noise from the planned project. Marine mammals are

expected to be affected via sound generated by the primary components of the project (*i.e.*, vibratory pile driving and removal). The maximum (underwater) area ensonified above the thresholds for behavioral harassment referenced above is 67.7 km² (26.1 mi²), and the calculated distance to the farthest behavioral isopleth is approximately 4.6 km (2.9 mi).

The project includes vibratory pile installation and removal and impact

pile installation. Source levels for these activities are based on reviews of measurements of the same or similar types and dimensions of piles available in the literature. Source levels for each pile size and activity are presented in Table 4. Source levels for vibratory installation and removal of piles of the same diameter are assumed to be the same.

TABLE 4—SOUND SOURCE LEVELS FOR PILE DRIVING

Pile size and type	Hammer type	Source level (at 10m)			Literature source
		SPL _{rms}	Peak	SEL	
11.5-inch H-Pile	Impact	183	200	170	Caltrans 2015 (12-in H-Pile).
14-inch H-Pile	Impact	187	208	177	Caltrans 2015 (14-in H-Pile).
	Vibratory	150	160	150	Caltrans 2015 (12-in H-Pile).
48-inch Pipe Pile	Impact	195	210	185	Caltrans 2015 (60-in CISS Pile).
Sheet Piles (19.69-inch and 25-inch) ...	Vibratory	160	175	160	Caltrans 2015 (AZ Sheet Pile).

Transmission loss (TL) is the decrease in acoustic intensity as an acoustic pressure wave propagates out from a source. TL parameters vary with frequency, temperature, sea conditions, current, source and receiver depth, water depth, water chemistry, and bottom composition and topography. The general formula for underwater TL is:

$$TL = B * \text{Log}_{10} (R1/R2),$$

where

TL = transmission loss in dB

B = transmission loss coefficient

R1 = the distance of the modeled SPL from the driven pile, and

R2 = the distance from the driven pile of the initial measurement

Absent site-specific acoustical monitoring with differing measured transmission loss, a practical spreading value of 15 is used as the transmission loss coefficient in the above formula. Project and site-specific transmission

loss data for the Prudhoe Bay portion of AGDC’s AK LNG project are not available; therefore, the default coefficient of 15 is used to determine the distances to the Level A and Level B harassment thresholds. However, as discussed in the Monitoring and Reporting section, AGDC will conduct SSV for pile driving. NMFS may adjust the shutdown zones and revise the Level A and Level B harassment zones, as appropriate, pending review and approval of the results of acoustic monitoring.

When the NMFS Technical Guidance (2016) was published, in recognition of the fact that ensonified area/volume could be more technically challenging to predict because of the duration component in the new thresholds, we developed a User Spreadsheet that includes tools to help predict a simple isopleth that can be used in conjunction with marine mammal density or

occurrence to help predict takes. We note that because of some of the assumptions included in the methods used for these tools, we anticipate that isopleths produced are typically going to be overestimates of some degree, which may result in some degree of overestimate of Level A harassment take. However, these tools offer the best way to predict appropriate isopleths when more sophisticated 3D modeling methods are not available, and NMFS continues to develop ways to quantitatively refine these tools, and will qualitatively address the output where appropriate. For stationary sources such as pile driving, NMFS User Spreadsheet predicts the distance at which, if a marine mammal remained at that distance the whole duration of the activity, it would incur PTS. Inputs used in the User Spreadsheet, and the resulting isopleths are reported below.

TABLE 5—USER SPREADSHEET INPUT PARAMETERS USED FOR CALCULATING LEVEL A HARASSMENT ISOPLETHS

	11.5-inch H-pile	14-inch H-pile	14-inch H-pile	48-inch pipe pile	19.69-inch sheet piles	25-inch sheet piles
Spreadsheet Tab Used	E.1) Impact pile driving.	E.1) Impact pile driving.	A.1) Vibratory pile driving.	E.1) Impact pile driving.	A.1) Vibratory pile driving.	A.1) Vibratory pile driving.
Weighting Factor Adjustment (kHz) ...	2	2	2.5	2	2.5	2.5.
Source Level	170 dB SEL	177 dB SEL	150 SPL _{rms}	185 dB SEL	160 SPL _{rms}	160 SPL _{rms} .
Number of piles within 24-h period ^a ...	26.09 ^b	4	8	1.25	15.24 ^b	12.
Duration to drive a single pile (minutes).	.....	.....	15 .....	.....	18.9	24.

TABLE 5—USER SPREADSHEET INPUT PARAMETERS USED FOR CALCULATING LEVEL A HARASSMENT ISOPLETHS—Continued

	11.5-inch H-pile	14-inch H-pile	14-inch H-pile	48-inch pipe pile	19.69-inch sheet piles	25-inch sheet piles
Number of strikes per pile	1,000	1,000 .....	.....	1,000 .....	.....	.....
Propagation (xLogR)	15	15	15	15	15	15.
Distance from source level measurement (meters).	10	10	10	10	10	10.

^a These estimates include contingencies for weather, equipment, work flow, and other factors that affect the number of piles per day, and are assumed to be a maximum anticipated per day. Given that AGDC plans to pile drive up to 24 hours per day, it is appropriate to assume that the number of piles installed within the 24-hour period may not be a whole number.

^b These averages assume that AGDC will drive 11.5-inch H-piles and sheet piles at a rate of 25 feet per day.

TABLE 6—CALCULATED DISTANCES TO LEVEL A AND LEVEL B HARASSMENT ISOPLETHS

Activity	Hammer type	Level A harassment zone (m)			Level B harassment zone (m)
		LF cetaceans	MF cetaceans	Phocids	
11.5-inch H-Pile	Impact	1,194	43	639	341
14-inch H-Pile	Impact	1,002	36	536	631
	Vibratory	2	<1	1	1,000
48-inch Pipe Pile	Impact	1,575	56	843	2,154
19.69-inch Sheet Piles	Vibratory	17	2	10	4,642
25-inch Sheet Piles	Vibratory	17	2	10	4,642

Level A harassment zones are typically smaller than Level B harassment zones. However, in rare cases such as the impact pile driving of the 11.5-inch and 14-inch H-piles in AGDC’s project, the calculated Level A harassment isopleth is greater than the calculated Level B harassment isopleth. Calculation of Level A harassment isopleths include a duration component, which in the case of impact pile driving, is estimated through the total number of daily strikes and the associated pulse duration. For a stationary sound source such as impact pile driving, we assume here that an animal is exposed to all of the strikes expected within a 24-hour period. Calculation of a Level B harassment zone does not include a duration component. Depending on the duration included in the calculation, the calculated Level A harassment isopleths can be larger than the calculated Level B harassment isopleth for the same activity.

Marine Mammal Occurrence

In this section we provide the information about the presence, density, or group dynamics of marine mammals that will inform the take calculations.

Each fall and summer, NMFS and BOEM conduct an aerial survey in the Arctic, the ASAMM surveys (Clarke *et al.*, 2012, 2013a, 2014, 2015, 2017a, 2017b, 2018, 2019, 2020). The goal of these surveys is to document the distribution and relative abundance of bowhead, gray, right, fin and beluga whales and other marine mammals in areas of potential oil and natural gas exploration, development, and

production activities in the Alaskan Beaufort and northeastern Chukchi Seas. Traditionally, only fall surveys were conducted but, in 2011, the first dedicated summer survey effort began in the ASAMM Beaufort Sea study area. AGDC used these ASAMM surveys as the data source to estimate seasonal densities of cetaceans (bowhead, gray and beluga whales) in the project area. The ASAMM surveys are conducted within blocks that overlay the Beaufort and Chukchi Seas oil and gas lease sale areas offshore of Alaska (Figure 16 in AGDC’s application), and provide sighting data for bowhead, gray, and beluga whales during summer and fall months. During the summer and fall, NMFS observed for marine mammals on effort for 13,484 km and 12,846 km, respectively, from 2011 through 2018, and an additional 1643 km during summer 2019 and 2055 km during fall 2019. Data from those surveys are used for this analysis. We note that the Prudhoe Bay portion of the AK LNG project is in ASAMM survey Block 1a. The inshore boundary of Block 1 terminates at the McClure Island group, and it was not until 2016 that on-effort surveys began inside the McClure Island group (Block 1a; including Prudhoe Bay) since bowhead whales, the focus of the surveys, are not likely to enter this area given its shallow depth. However, no bowhead whales and only one beluga whale have been observed in Block 1a (including Prudhoe Bay). Therefore, the density estimates provided here, calculated using data from block 1, are likely an overestimate because they rely

on offshore surveys where marine mammals are more likely to be present.

Bowhead Whale

AGDC calculated density estimates for bowhead whale by dividing the average number of whales observed per km of transect effort from 2011 to 2018 in ASAMM Block 1 (whales/km in Table 7) by two times the effective strip width (ESW) to encompass both sides of the transect line (whales per km/(2 × ESW). The ESW for bowhead whales from the Aero Commander aircraft is 1.15 km (0.71 mi) (Ferguson and Clarke 2013). Therefore, the summer density estimate is 0.005 bowhead whales/km², and the fall density estimate is 0.017 bowhead whales/km². The resulting densities are expected to be overestimates for the AK LNG analysis because the data is based on sighting effort outside of the barrier islands, and bowhead whales rarely occur within the barrier islands. However, AGDC conservatively used the higher fall density to estimate potential Level B harassment takes, and NMFS concurs. (Note that inclusion of the 2019 ASAMM surveys reduces the fall bowhead density to 0.016 bowhead whales/km². However, NMFS has conservatively used the higher density included in the proposed IHA to calculate Level B harassment take of bowhead whale, as described in the *Take Calculation and Estimation* section, below.)

As noted in the Description of Marine Mammals in the Area of Specified Activities section of the proposed IHA (85 FR 43382; July 16, 2020), we do not expect bowhead whales to be present

during AGDC's winter/spring contingency pile driving period.

TABLE 7—BOWHEAD WHALE SIGHTING DATA FROM 2011 THROUGH 2019 AND RESULTING DENSITIES

Year	Summer				Fall			
	Number of whales sighted	Transect effort (km)	Whales/km	Whales/km ^{2 a}	Number of whales sighted	Transect effort (km)	Whales/km	Whales/km ^{2 a}
2011	1	346	0.003	0.001	24	1,130	0.021	0.009
2012	5	1,493	0.003	0.001	17	1,696	0.010	0.004
2013	21	1,582	0.013	0.006	21	1,121	0.019	0.008
2014	17	1,393	0.012	0.005	79	1,538	0.051	0.022
2015	15	1,262	0.012	0.005	17	1,663	0.010	0.004
2016	97	1,914	0.051	0.022	23	2,360	0.010	0.004
2017	8	3,003	0.003	0.001	255	1,803	0.141	0.061
2018	2	2,491	0.001	0.0004	69	1,535	0.045	0.020
2019 ^c	6	1,643	0.004	0.002	45	2,055	0.022	0.010
Total	166	13,484	^b 0.012	^b 0.005	505	12,846	^b 0.039	^b 0.017

^a Calculated using an effective strip width of 1.15 km.

^b Value represents average, not total, across all years.

^c Note that inclusion of the new 2019 data results in a lower fall bowhead whale density (0.016). NMFS has conservatively used the higher fall density included in the proposed IHA (85 FR 43382; July 16, 2020) to calculate Level B harassment take of bowhead whale. Therefore, the 2019 data is not included in calculations in the "TOTAL" row.

Gray Whale

Gray whale sightings in the Beaufort Sea have increased in recent years; however, encounters are still infrequent. AGDC calculated density estimates for gray whale by dividing the average number of whales observed per km of transect effort (whales/km in Table 8) by two times the ESW to encompass both sides of the transect line (whales per km/(2 × ESW). The ESW for gray whales from the Aero Commander aircraft is 1.20 km (0.75 mi) (Ferguson and Clarke 2013). Therefore, the summer and fall

density estimates are both 0.00003 gray whales/km². The resulting densities are expected to be overestimates for the AK LNG analysis because the data is based on sighting effort outside of the barrier islands, and gray whales rarely occur within the barrier islands as evidenced by Block 1a ASAMM surveys.

Similar to bowhead whale described above, gray whale densities were calculated using ASAMM survey data from 2011 to 2018. Inclusion of the 2019 ASAMM surveys reduces the summer gray whale density to 0.000028 gray

whales/km². However, NMFS has conservatively used the slightly higher density included in the proposed IHA to calculate Level B harassment take of gray whale, as described in the *Take Calculation and Estimation* section, below.

As noted in the Description of Marine Mammals in the Area of Specified Activities section of the proposed IHA (85 FR 43382; July 16, 2020), we do not expect gray whales to be present during AGDC's winter/spring contingency pile driving period.

TABLE 8—GRAY WHALE SIGHTING DATA FROM 2011 THROUGH 2019 AND RESULTING DENSITIES

Year	Summer				Fall			
	Number of whales sighted	Transect effort (km)	Whales/km	Whales/km ^{2 a}	Number of whales sighted	Transect effort (km)	Whales/km	Whales/km ^{2 a}
2011	0	346	0	0	0	1,130	0	0
2012	0	1,493	0	0	0	1,696	0	0
2013	0	1,582	0	0	0	1,121	0	0
2014	0	1,393	0	0	1	1,538	0.0007	0.0003
2015	0	1,262	0	0	0	1,663	0	0
2016	1	1,914	0.003	0.001	0	2,360	0	0
2017	0	3,003	0	0	0	1,803	0	0
2018	0	2,491	0	0	0	1,535	0	0
2019	0	1,643	0	0	0	2,055	0	0
Total	1	13,484	^b 0.00007	^b 0.00003	1	12,846	^b 0.00008	^b 0.00003

^a Calculated using an effective strip width of 1.20 km.

^b Value represents average, not total, across all years.

^c Note that inclusion of the new 2019 data results in a lower fall bowhead whale density (0.016). NMFS has conservatively used the higher fall density included in the proposed IHA to calculate Level B harassment take of bowhead whale. Therefore, the 2019 data is not included in calculations in the "TOTAL" row.

Beluga Whale

AGDC calculated beluga densities for survey block 1 (the area offshore from

the McClure Island group) using ASAMM data collected from 2014–2018. Beluga sighting data was included in surveys from 2011 to 2013; however,

this data is only summarized by depth zone, rather than by survey block. Therefore, the National Marine Mammal Laboratory (Megan Ferguson, pers.

comm., November 18, 2019), advised NMFS and AGDC to calculate beluga whale density using the 2014–2018 ASAMM data, as it is more recent and incorporates more years. Density estimates for beluga whale were calculated by dividing the average number of whales observed per km of transect effort (whales/km in Table 9) by two times the effective strip width to encompass both sides of the transect line (whales per km/(2 × ESW). The ESW for beluga whales from the Aero Commander aircraft is 0.614 km (0.38 mi) (Ferguson and Clarke 2013). Using the 2014 to 2018 data, the resulting summer density estimate included in the proposed IHA was 0.005 beluga whales/km², and the fall density

estimate included in the proposed IHA was 0.001 beluga whales/km². AGDC conservatively used the higher summer density to estimate potential Level B harassment takes, and NMFS concurred for the proposed IHA (85 FR 43382; July 16, 2020).

Inclusion of the recently-available 2019 ASAMM survey results for beluga whale in block 1 increased the summer beluga whale density to 0.009 whales/km² since publication of the proposed IHA. Therefore, as described further in the *Take Calculation and Estimation* section, below, NMFS used the updated summer density to calculate beluga whale Level A and Level B harassment take.

The resulting densities are expected to be overestimates for the AK LNG

analysis because the data is based on sighting effort outside of the barrier islands, and beluga whales rarely occur within the barrier islands, as evidenced by Block 1a ASAMM survey data. One beluga whale was observed in survey Block 1a in 2018. However, this sighting was a “sighting on search,” meaning that the sighting occurred off of the survey transect, and therefore was not included in the density calculation.

As noted in the Description of Marine Mammals in the Area of Specified Activities section of the proposed IHA (85 FR 43382; July 16, 2020), we do not expect beluga whales to be present during AGDC’s winter/spring contingency pile driving period.

TABLE 9—BELUGA WHALE SIGHTING DATA FROM 2011 THROUGH 2019 AND RESULTING DENSITIES

Year	Summer				Fall			
	Number of whales sighted	Transect effort (km)	Whales/km	Whales/km ^{2 a}	Number of whales sighted	Transect effort (km)	Whales/km	Whales/km ^{2 a}
2014	13	1,393	0.009	0.008	9	1,538	0.006	0.005
2015	37	1,262	0.029	0.024	3	1,663	0.002	0.001
2016	0	1,914	0	0	1	2,360	0.0004	0.0003
2017	4	3,003	0.001	0.001	0	1,803	0	0
2018	6	2,491	0.002	0.002	0	1,535	0	0
2019 ^c	63	1,643	0.038	0.031	1	2,055	0.0005	0.0004
Total	60	11,706	^b 0.012	^b 0.009	13	10,954	^b 0.001	^b 0.001

^a Calculated using an effective strip width of 0.614 km.
^b Value represents average, not total, across all years.
^c Values included in the updated “TOTAL” row.

Ringed Seal

Ringed seals are the most abundant species in the project area. They haul out on the ice to molt between late May and early June, and spring aerial surveys provide the most comprehensive density estimates available. Industry monitoring programs for the construction of the Northstar production facility conducted spring aerial surveys in the area surrounding West Dock from 1997 to 2002 (Frost *et al.*, 2002; Moulton *et al.*, 2002b; Moulton *et al.*, 2005; Richardson and Williams, 2003). Spring

surveys are expected to provide the best ringed seal density information, as the greatest percentage of seals have abandoned their lairs and are hauled out on the ice (Kelly *et al.*, 2010). Densities were consistently very low in areas where the water depth was less than 10 ft. (3 m), and only sightings observed in water depths greater than 10 ft. (3 m) have been included in the density calculations (Moulton *et al.*, 2002a, Moulton *et al.*, 2002b, Richardson and Williams, 2003). The average observed spring ringed seal density from this monitoring effort was 0.548 seals/km²

(Table 10). These densities are not corrected for unobserved animals, and therefore may result in an underestimated density. However, NMFS and AGDC do not expect this to be a concern, given that the density calculations conservatively only included sightings observed in water depths greater than 10 ft (3 m) (Moulton *et al.*, 2002a, Moulton *et al.*, 2002b, Richardson and Williams, 2003), while the water surrounding the project site is shallow (less than 10 ft at the project site), and therefore densities are likely to be lower.

TABLE 10—RINGED SEAL DENSITIES ESTIMATED FROM SPRING AERIAL SURVEYS CONDUCTED FROM 1997 TO 2002

Year	Density (seals/km ²)
1997	0.43
1998	0.39
1999	0.63
2000	0.47
2001	0.54
2002	0.83
Average	0.548

In order to generate a summer density, as AGDC expects that the majority of their work will occur during the summer, we first began with the spring density. Summer densities in the project area are expected to significantly decrease as ringed seals range considerable distances during the open water season. Summer density was estimated to be 50 percent of the spring density (0.548 seals/km²), resulting in a summer density estimate of 0.274 ringed seals/km². Like summer density estimates, fall density data are limited. Ringed seals remain in the water through the fall and into the winter. Given the lack of data, fall density is

assumed the same as the summer density of 0.274 ringed seals/km².

During the winter months, ringed seals create subnivean lairs and maintain breathing holes in the landfast ice. Tagging data suggest that ringed seals utilize multiple lairs and Kelly *et al.* (1986) determined that, on average, one seal used 2.85 lairs, although the authors suggested that this is likely an underestimate. Density estimates for the number of ringed seal ice structures have been calculated (Frost and Burns 1989; Kelly *et al.* 1986; Williams *et al.* 2001), and the average density of ice structures from these reports is 1.58/km².

To estimate ringed seal density in the winter, the average ice structure density (1.58/km²) was divided by the average number of structures used by the seals (2.85 structures). The estimated density is 0.509 ringed seals/km² in the winter; however, this is likely an overestimate as the average number of ice structures utilized is thought to be an underestimate (Kelly *et al.*, 1986).

While more recent ASAMM surveys have been conducted in the project area (2016–2019), these surveys did not identify observed pinnipeds to species, and therefore were not used to calculate take of pinnipeds.

TABLE 11—RINGED SEAL ICE STRUCTURE DENSITY IN THE VICINITY OF THE PROJECT AREA

Year	Ice structure density (structures per km ²)	Source
1982	3.6	Frost and Burns 1989.
1983	0.81	Kelly <i>et al.</i> , 1986.
1999	0.71	Williams <i>et al.</i> , 2001.
2000	1.2	Williams <i>et al.</i> , 2001.
Average Density	1.58.	

Given that AGDC will only pile drive during the winter if they are unable to complete the work during the summer and fall open water season, AGDC estimated ringed seal takes using summer densities, rather than winter. NMFS concurs with this approach.

Spotted Seal

The spotted seal occurs in the Beaufort Sea in small numbers during the summer open water period. At the onset of freeze-up in the fall, spotted seals return to the Chukchi and then Bering Sea to spend the winter and spring. As such, we do not expect spotted seals to occur in the project area during AGDC's winter/spring contingency period.

Only a few of the studies referenced in calculating the ringed seal densities also include data for spotted seals. Given the limited spotted seal data, NMFS expects that relying on this data may result in an underestimate, and that it is more conservative to calculate the spotted seal density as a proportion of the ringed seal density. Therefore, summer spotted seal density was estimated as a proportion of the ringed seal summer density based on the percentage of pinniped sightings observed during monitoring projects in the region (Harris *et al.*, 2001; Aerts *et al.*, 2008; Hauser *et al.*, 2008; HDR 2012). Spotted seals comprised 20

percent of the pinniped sightings during these monitoring efforts. Therefore, summer spotted seal density was calculated as 20 percent of the ringed seal density of 0.274 seals/km². This results in an estimated spotted seal summer density of 0.055 seals/km².

Bearded Seal

The majority of bearded seals spend the winter and spring in the Chukchi and Bering seas; however, some remain in the Beaufort Sea year-round. A reliable population estimate for the bearded seal stock is not available, and occurrence in the Beaufort Sea is less known than that in the Bering Sea. Spring aerial surveys conducted as part of industry monitoring for the Northstar production facility provide limited sighting numbers from 1999–2002 (Moulton *et al.*, 2000, Moulton *et al.*, 2001, Moulton *et al.*, 2002a, Moulton *et al.*, 2003). During the 4 years of survey, an average of 11.75 bearded seals were observed during 3,997.5 km² of effort. Using this data, winter and spring density are estimated to be 0.003 bearded seals/km².

Bearded seals occur in the Beaufort Sea more frequently during the open water season, rather than other parts of the year. Only a few of the studies referenced in calculating the ringed seal densities also include data for bearded seals. Given the limited bearded seal

data, NMFS expects that relying on this data may result in an underestimate, and that it is more conservative to calculate the bearded seal density as a proportion of the ringed seal density. Therefore, summer density was estimated as a proportion of the ringed seal summer density based on the percentage of pinniped sightings observed during monitoring projects in the region (Harris *et al.*, 2001; Aerts *et al.*, 2008; Hauser *et al.*, 2008; HDR 2012). Bearded seals comprised 17 percent of the pinniped sightings during these monitoring efforts. Therefore, summer bearded seal density was calculated as 17 percent of the ringed seal density of 0.274 seals/km². This results in an estimated bearded seal summer density of 0.047 seals/km². The same estimate is assumed for bearded seal fall density.

As noted in the Description of Marine Mammals in the Area of Specified Activities section and in Table 12, bearded seals could potentially occur in the project area during AGDC's winter/spring contingency period. However, we would expect very few, if any, bearded seals to be present during this time. In consideration of this species presence information, and AGDC's plan to conduct most construction during the open-water season, NMFS used the summer density in the take calculation described below.

TABLE 12—MARINE MAMMAL DENSITIES IN THE GEOGRAPHIC REGION BY SEASON

Species	Winter (Nov–Mar)	Spring (Apr–Jun) ^a	Summer (Jul–Aug)	Fall (Sept–Oct)
Bowhead Whale	0	0	0.005	0.017
Gray Whale	0	0	0.00003	0.00003
Beluga Whale ^b	0	0	0.009	0.001
Ringed Seal	0.507	0.548	0.274	0.274
Spotted Seal	0	0	0.055	0
Bearded Seal	0.003	0.003	0.047	0.047

^a AGDC’s pile driving contingency period extends from late February to April 2024, however, very little if any pile driving is likely to occur in April.

^b As noted above, the beluga whale densities were updated to include 2019 ASAMM survey data. (Clarke *et al.*, 2020).

Take Calculation and Estimation

In this section, we describe how the information provided above is brought together to produce a quantitative take estimate.

To estimate Level A and Level B harassment takes, AGDC first multiplied the area (km²) estimated to be ensonified above the Level A or Level B harassment thresholds for each species, respectively, for pile driving (and removal) of each pile size and hammer type by the duration (days) of that activity in that season by the seasonal density for each species (number of animals/km²). NMFS generally concurs with, and has adopted this method, with the exception of the estimated duration of the activity, as described below.

AGDC expects that construction will likely be completed during the open-water construction season. AGDC calculated that the construction will require approximately 164 days of in-water work; however, this estimate does not take into account that different pile types would be installed on the same day, therefore reducing the total number of pile driving days. Therefore, NMFS expects that the take calculation using AGDC’s method described above overestimates take. Taking into consideration the number of calendar days, construction occurring 6 days per week, and no work occurring on days during the whaling season, there are 123 days in the months of July through October on which the work is expected to occur (75 percent of the 164 days used to inform the take estimate in AGDC’s application). As such, NMFS is authorizing 75 percent of the take estimate calculated by AGDC for each species (except for Level A harassment

take of bowhead whales and beluga whales, and Level B harassment of gray whales as noted below).

NMFS recognizes that AGDC may work for a short time outside of this period in their February to April contingency period; however, we expect that if AGDC works during the contingency period, it would be because of construction delays (and therefore, days on which they did not work) during their planned open water work season. Additionally, we recognize that ringed seals may be present in ice lairs during the contingency period. However, AGDC must initiate pile driving prior to March 1, as described in the Mitigation Measures section. Initiating pile driving before March 1 is expected to discourage seals from establishing birthing lairs near pile driving. As such, we expect that this measure will eliminate the potential for physical injury to ringed seals during this period. Therefore, NMFS expects that the take estimate described herein is reasonable even if AGDC must pile drive during their contingency period.

NMFS calculated take using summer densities for all species except for bowhead whale. For bowhead whales, NMFS conservatively calculated take using the fall density.

For bowhead whale, including the 2019 ASAMM surveys decreases the fall bowhead density to 0.016 bowhead whales/km². However, NMFS has conservatively used the higher density included in the proposed IHA to calculate Level B harassment take of bowhead whale. Using the lower density results in an estimate of 103 Level B harassment takes of bowhead, which NMFS considers to be a

negligible difference, though less conservative.

For gray whale, including the 2019 ASAMM survey data decreases the summer density to 0.000028 gray whales/km². Using this lower density results in a calculated take estimate of 0.18 takes by Level B harassment of gray whale, but in consideration of group size, the take estimate remains 2 takes by Level B harassment, as included in the proposed IHA.

For beluga whale, including the 2019 ASAMM survey data increases the summer density to 0.0009 beluga whales/km², which significantly increases the estimated Level A and Level B harassment takes. Therefore, NMFS recalculated the Level A and Level B harassment take estimates using this new density. The updated estimates are included in Table 14 and Table 15.

As noted in Table 15, in the proposed IHA (85 FR 43382; July 16, 2020), Level A harassment takes for beluga whale and phocids were erroneously calculated using the LF cetacean Level A harassment zone sizes. The calculations in Table 15 and in the final IHA reflect the corrected estimated Level A harassment take for phocids and beluga whale, calculated using the correct Level A harassment zone sizes. The Final IHA does not authorize Level A harassment take of beluga whale (nor was it included in the proposed IHA) despite the change to the calculation, given the small size of the Level A harassment zones, the low likelihood that a beluga will occur in this area, the lack of modeled Level A harassment takes, and the required mitigation, as described below.

TABLE 13—AREA OF LEVEL A AND LEVEL B HARASSMENT ZONES

	Area of level A harassment zone (km ²)			Area of level B harassment zone (km ²)
	LF cetaceans	MF cetaceans	Phocids	
11.5-in H-pile (impact)	4.48	0.01	1.28	0.37
14-in H-pile (impact)	3.15	0.00	0.90	1.25

TABLE 13—AREA OF LEVEL A AND LEVEL B HARASSMENT ZONES—Continued

	Area of level A harassment zone (km ²)			Area of level B harassment zone (km ²)
	LF cetaceans	MF cetaceans	Phocids	
14-in H-pile (vibratory)	0.00	0.00	0.00	3.14
48-in pipe pile (impact)	7.80	0.01	2.23	14.58
19.69-in sheet pile (vibratory)	0.00	0.00	0.00	67.68
25-in sheet pile (vibratory)	0.00	0.00	0.00	67.68

TABLE 14—ESTIMATED LEVEL B HARASSMENT TAKES BY SPECIES, PILE SIZE AND TYPE, AND INSTALLATION/REMOVAL METHOD

Activity	Estimated duration (days)	Calculated level B harassment takes					
		Bowhead whale	Gray whale	Beluga whale ^b	Ringed seal	Spotted seal	Bearded seal
DH4							
Sheet Pile	36	41.65	0.08	20.85	668.04	133.61	113.57
Anchor Pile (11.5-inch H-pile)	9	0.06	0	0.03	0.90	0.18	0.15
Mooring Dolphins (48-inch Pipe Pile)	10	2.49	0	1.25	39.98	8.00	6.80
Spud Piles (14-inch H-pile)	12	0.64	0	0.32	10.34	2.07	1.76
South Bridge Abutment Dock Face (Sheet Pile) ..	23	26.61	0.05	13.32	426.80	85.36	72.56
Tailwall (Sheet Pile)	23	26.61	0.05	13.32	426.80	85.36	72.56
Anchor Pile (14-inch H-pile)	1	0.02	0	0.01	0.34	0.07	0.06
North Bridge Abutment Dock Face (Sheet Pile) ..	24	27.76	0.05	13.90	445.36	89.07	75.71
Tailwall (Sheet Pile)	17	19.67	0.04	9.85	315.46	63.09	53.63
Anchor Pile (14-inch H-pile)	1	0.02	0	0.01	0.34	0.07	0.06
Barge Bridge							
Mooring Dolphins (48-inch Pipe Piles)	4	1.00	0	0.50	15.99	3.20	2.72
Spud Piles (14-inch H-piles)	4	0.21	0	0.11	3.45	0.69	0.59
Total	164	146.74	0.27	73.46	2353.8	470.76	400.15
Level B Harassment Take Authorized (75% of Total)	123	110	^a 2	55	1,765	353	300

^a 75 percent of the calculated total is 0.2 takes, however, to account for group size (Clarke *et al.*, 2017), NMFS is authorizing two Level B harassment takes of gray whale.

^b Includes updated density data from 2019 ASAMM surveys (Clarke *et al.*, 2020).

TABLE 15—CALCULATED LEVEL A HARASSMENT TAKES BY SPECIES, PILE SIZE AND TYPE, AND INSTALLATION/REMOVAL METHOD

Activity	Estimated duration (days)	Calculated level A harassment takes					
		Bowhead whale	Gray whale	Beluga whale ^{c,d}	Ringed seal ^c	Spotted seal ^c	Bearded seal ^c
DH4							
Sheet Pile	36	0	0	0	0	0	0
Anchor Pile (11.5-inch H-pile)	9	0.69	0	0	3.16	0.63	0.54
Mooring Dolphins (48-inch Pipe Pile)	10	1.33	0	0	6.11	1.23	1.05
Spud Piles (14-inch H-pile)	12	0	0	0	0	0	0
South Bridge Abutment Dock Face (Sheet Pile)	23	0	0	0	0	0	0
Tailwall (Sheet Pile)	23	0	0	0	0	0	0
Anchor Pile (14-inch H-pile)	1	0.05	0	0	0.25	0.05	0.04
North Bridge Abutment Dock Face (Sheet Pile)	24	0	0	0	0	0	0
Tailwall (Sheet Pile)	17	0	0	0	0	0	0

TABLE 15—CALCULATED LEVEL A HARASSMENT TAKES BY SPECIES, PILE SIZE AND TYPE, AND INSTALLATION/REMOVAL METHOD—Continued

Activity	Estimated duration (days)	Calculated level A harassment takes					
		Bowhead whale	Gray whale	Beluga whale ^{c,d}	Ringed seal ^c	Spotted seal ^c	Bearded seal ^c
Anchor Pile (14-inch H-pile)	1	^a 0.05	0	0	0.2466	0.0495	0.0423
Barge Bridge Mooring Dolphins (48-inch Pipe Piles)	4	0.53	0	0	2.44	0.49	0.42
Spud Piles (14-inch H-piles)	4	0	0	0	0	0	0
Total	164	2.65	0	0	12.20	2.45	2.09
Level A Harassment Take Authorized (75% of Total)	123	^b 0	0	0	9	2	2

^aNote that the notice of proposed IHA mistakenly stated 0.5, rather than 0.05. However, the “Total” cell was calculated correctly.
^b75 percent of the calculated total is 1.99 takes, however, we do not expect bowheads to occur within the Level A harassment zone, and we do not propose to authorize Level A harassment take of bowhead whale.
^cIn the proposed IHA, Level A harassment takes for beluga whale and phocids were erroneously calculated using the LF cetacean Level A harassment zone sizes. The calculations in this table and in the final IHA reflect the corrected estimated Level A harassment take, calculated using the Level A harassment zone for belugas and phocids, respectively.
^dBeluga whale take estimates were updated to reflect inclusion of the 2019 ASAMM data in the density calculation. (However, the “Level A harassment Take Authorized” did not change.)

We do not expect bowhead whales to occur within the Level A harassment zones due to the shallow waters (approximately 19 ft in depth at the isopleth), lack of historic sightings, and required mitigation. As previously noted, waters less than 15 ft (4.5 m) deep are considered too shallow to support these whales, and in three decades of aerial surveys by BOEM (ASAMM), no bowhead whale has been recorded in waters less than 16.4 ft (5 m) deep (Clarke and Ferguson 2010). Further, no bowhead whales have been observed during ASAMM surveys in Block 1a (which encompasses the Level A harassment zone) since Block 1a surveys in began in 2016. Additionally, shutdown requirements within designated shutdown zones for LF cetaceans (which include bowhead whales) are expected to prevent take by Level A harassment given the large size and visibility of bowhead whales. Additionally, Level A harassment zones are calculated with an associated duration component based on the amount of pile driving expected to

occur within one day. Therefore, a marine mammal is not taken by Level A harassment instantaneously when it enters the Level A harassment zone, and given the shallow depths, even if a bowhead did enter the Level A harassment zone, we would not expect it to remain within the zone for a long enough period to incur PTS. Therefore, we do not expect Level A harassment of bowhead whales to occur, and are not authorizing Level A harassment take of bowheads.
 The likelihood of gray whales occurring in the Level A harassment zone is extremely low, as evidenced by the very low densities included in the *Marine Mammal Occurrence* section and the lack of modeled takes in Table 15. Further, shutdown requirements within designated shutdown zones for LF cetaceans (which include gray whales) are expected to prevent take by Level A harassment given the large size and visibility of gray whales, and the duration component associated with the Level A harassment zones. Even if a gray whale did enter the Level A harassment zone, we would not expect

it to remain within the zone for a long enough period to incur PTS, given the mitigation and visibility. Therefore, we do not expect Level A harassment of gray whales to occur, and are not authorizing Level A harassment take of gray whale.
 The largest Level A harassment zone for mid-frequency cetaceans (including the beluga whale) extends 56 m from the source during impact driving of the 48-inch pipe piles (Table 6). Considering the small size of the Level A harassment zones, and the low likelihood that a beluga will occur in this area, Level A harassment take is unlikely to occur. Further, no Level A harassment takes are modeled given the corrected zone size used in the calculation in this final IHA. Additionally, AGDC is planning to implement a 50 m shutdown zone during this activity, which includes the <1 m peak PTS isopleth. We expect shutdown zones will eliminate the potential for Level A harassment take of beluga whale. Therefore, we are not authorizing takes of beluga whale by Level A harassment.

TABLE 16—AUTHORIZED INCIDENTAL TAKE BY LEVEL A AND LEVEL B HARASSMENT, BY SPECIES AND STOCK

Common name	Stock	Level A harassment take ^e	Level B harassment take ^e	Total instances of take	Stock abundance	Percent of stock
Bowhead Whale	Western Arctic	0	110	110	16,820	0.65
Gray Whale	Eastern North Pacific	0	2	2	26,960	0.007
Beluga Whale ^a	Beaufort Sea	0	55	55	39,258	0.14
	Chukchi Sea .....	.....	.....	.....	^c 13,305	0.4
Ringed Seal	Arctic ^d	9 ^b	1,765	1,774	N/A	N/A
Spotted Seal	Bering ^d	2 ^b	353	355	461,625	0.08

TABLE 16—AUTHORIZED INCIDENTAL TAKE BY LEVEL A AND LEVEL B HARASSMENT, BY SPECIES AND STOCK—Continued

Common name	Stock	Level A harassment take ^e	Level B harassment take ^e	Total instances of take	Stock abundance	Percent of stock
Bearded Seal	Beringia ^d	2 ^b	300	302	N/A	N/A

^a As noted in the Description of Marine Mammals in the Area of Specified Activities section, beluga whales in the project area are likely to be from the Beaufort Sea stock. However, we have conservatively attributed all takes to each stock in our analysis.

^b Updated to reflect the correct Level A harassment zone size for phocids.

^c Updated to reflect the 2020 Draft SAR estimate. The former stock abundance estimate was 20,752.

^d These stock names were updated in the 2020 Draft SARs. The stock names were all formerly "Alaska."

^e The estimated number of takes by Level A harassment and Level B harassment does not necessarily equate to the number of individual animals NMFS expects will be harassed (which may be lower), but rather to the instances of take (*i.e.*, exposures above the Level A harassment and Level B harassment threshold) that are anticipated to occur. These instances may represent either brief exposures (minutes) or, in some cases, longer durations of exposure within a day. Some individuals may experience multiple instances of take (*i.e.*, on multiple days) over the course of the year, which means that the number of individuals taken is smaller than the total estimated takes. Repeat takes of the same individual are more likely for pinnipeds given the likelihood of an individual to remain in the project area for a longer period of time in comparison to a cetacean, and the greater anticipated instances of pinniped takes.

Effects of Specified Activities on Subsistence Uses of Marine Mammals

The availability of the affected marine mammal stocks or species for subsistence uses may be impacted by this activity. The subsistence uses that may be affected and the potential impacts of the activity on those uses are described below. Measures included in this IHA to reduce the impacts of the activity on subsistence uses are described in the Mitigation Measures section. Last, the information from this section and the Mitigation Measures section is analyzed to determine whether the necessary findings may be made in the Unmitigable Adverse Impact Analysis and Determination section.

The communities of Nuiqsut, Utqiagvik and Kaktovik engage in subsistence harvests off the North Slope of Alaska. Alaska Native communities have harvested bowhead whales for subsistence and cultural purposes with oversight and quotas regulated by the International Whaling Commission (IWC). The NSB Department of Wildlife Management has been conducting bowhead whale subsistence harvest research since the early 1980's to collect the data needed by the IWC to set harvest quotas. Bowhead whale harvest (percent of total marine mammal harvest), harvest weight, and percent of households using bowhead whale are presented in Table 25 of AGDC's application.

Most of the Beaufort Sea population of beluga whales migrate from the Bering Sea into the Beaufort Sea in April or May. The spring migration routes through ice leads are similar to those of the bowhead whale. Fall migration through the western Beaufort Sea occurs in September or October. Surveys of the fall distribution strongly indicate that most belugas migrate offshore along the pack ice front beyond the reach of subsistence harvesters.

Beluga whales are harvested opportunistically during the bowhead harvest and throughout ice-free months. No beluga whale harvests were reported in 2006 survey interviews conducted by Stephen R. Braund & Associates (SRBA) in any community (SRBA 2010). Beluga harvests were also not reported in Nuiqsut and Kaktovik, although households did report using beluga whale, likely through sharing from other communities (Brown *et al.*, 2016). We do not expect the planned activities at the AK LNG project site to affect beluga whale subsistence harvests, as none are expected.

Gray whale harvests were not reported by any of the communities surveyed by Alaska Department of Fish and Game (ADF&G) in any of the survey years, and therefore are not included as an important subsistence species and are not further discussed.

The community of Utqiagvik's subsistence activities occur outside of the area impacted by activities considered in this authorization. As described below, we do not expect impacts to Utqiagvik's subsistence activities, and therefore they are not discussed further beyond the explanation provided here.

Impacts to marine mammals from the planned construction would mostly include limited, temporary behavioral disturbances of seals, however, some slight PTS within the lower frequencies associated with pile driving is possible. Additionally, a small number of takes of bowhead whales, by Level B harassment only, are predicted to occur in the vicinity of AGDC's activity. Even if some subset of taken individuals deflected farther offshore near the project site, it is reasonable to predict that most individuals would likely resume a more typical migration path by the time they reach the Utqiagvik hunting area, and therefore, significant impacts to the Utqiagvik hunt would be

unlikely. Please refer to AGDC's application for additional information.

The planned activities and associated harassment of marine mammals are not expected to impact marine mammals in numbers or locations sufficient to render them unavailable for Utqiagvik subsistence harvest given the short-term, temporary, and localized nature of construction activities, and the planned mitigation measures. Additionally, no serious injury or mortality of marine mammals is expected or authorized, and the activities are not expected to have any impacts on reproductive or survival rates of any marine mammal species. Altogether, the authorized take by harassment will not have an unmitigable adverse impact on the availability of any species or stock for subsistence uses.

Kaktovik

Kaktovik is the easternmost village in the NSB. Kaktovik is located on the north shore of Barter Island, situated between the Okpilak and Jago rivers on the Beaufort Sea coast. Kaktovik's subsistence-harvest areas are to the east of the project area and target marine mammal species migrating eastward during spring and summer occur seaward of the project area and westward in the fall.

Kaktovik bowhead whale hunters reported traveling between Camden Bay to the west and Nuvagak Lagoon to the east (SRBA 2010). This range does not include the project area impacted by the activities analyzed for this IHA. The small number of takes of bowhead whales, by Level B harassment only, predicted to occur in the vicinity of AGDC's activity are not expected to have any impacts on the fitness of any bowhead whales. Further, we do not expect construction activities to deflect the bowhead whale migration offshore in the Kaktovik hunting area, given the distance from the western extent of the

hunting area (Camden Bay) to the predicted Level B harassment isopleths. Even if some subset of taken individuals deflected farther offshore near the project site, it is reasonable to predict that most individuals would likely resume a more typical migration path by the time they reach the Kaktovik hunting area during the eastbound migration, and during the westbound migration, a bowhead exposed to construction noise would have already passed the hunting area prior to exposure. Significant impacts to the Kaktovik hunt would be unlikely, and Kaktovik bowhead whale hunting is not discussed further. Please refer to AGDC's application for additional information.

Ringed, spotted and bearded seals are harvested by the community of Kaktovik. Residents hunt seals in rivers during ice-free months, primarily July-August. Ringed seals are an important subsistence resource for Native Alaskans living in communities along the Beaufort Sea coast. Kaktovik hunters travel by boat to look for ringed seals on floating ice (often while also hunting for bearded seal) or sometimes along the ice edge by snow machine before break-up, during the spring (SRBA 2010). In 2006, 7 people (18 percent of survey respondents) indicated that they had recently hunted for ringed seals in Kaktovik (SRBA 2010). Residents reported looking for ringed seal, usually while also searching for bearded seal, offshore between Prudhoe Bay to the west and Demarcation Bay to the east (SRBA 2010). Ringed seal hunting typically peaks between March and August but continues into September, as well (SRBA 2010). Although residents reported hunting ringed seals up to approximately 30 mi (48 km) from shore, the highest numbers of overlapping use areas generally occur within a few miles from shore (SRBA 2010). The total use area for ringed seal from 1995–2006 encompassed approximately 2,139 mi² (5540 km²). Harvest of ringed seals by Kaktovik hunters does not typically occur to the west of Camden Bay. Additionally, impacts to ringed seals are expected to include temporary behavioral disturbances and some slight PTS within the lower frequencies associated with pile driving. Serious injury or mortality of ringed seals is not anticipated from the planned activities, and the activities are not expected to have any impacts on ringed seal reproductive or survival rates, or to impact availability of ringed seals. Therefore, AK LNG project activities are

not expected to impact Kaktovik ringed seal harvests.

Kaktovik hunters harvested 126 pounds of spotted seals in 1992 (ADF&G CSIS; retrieved and analyzed August 15, 2018). Spotted seals were not reported harvested in 2006 survey interviews conducted in Nuiqsut (SRBA 2010).

Kaktovik bearded seal hunting occurs along the coast as far west as Prudhoe Bay and as far east as the United States/Canada border (SRBA 2010). Residents reported looking for bearded seal as far as approximately 30 mi (48 km) from shore, but generally hunt them closer to shore, up to 5 mi (8 km; SRBA 2010). Between 1994–2003, 29 bearded seals were taken in Kaktovik. In 2006, 7 people (18 percent of survey respondents) indicated that they had recently hunted for bearded seals in Kaktovik (SRBA 2010). Bearded seal hunting activities, like ringed seal, begin in March, peaking in July and August, and then conclude in September (SRBA 2010).

The community of Kaktovik is approximately 100 (direct) mi (160 km) from the planned project at Prudhoe Bay; subsistence activities for these communities primarily occur outside of the project construction area and the associated Level A and Level B harassment zones. The planned construction and use of improvements to West Dock would occur in Prudhoe Bay, adjacent to existing oil and gas infrastructures, and in an area that is not typically used for subsistence other than extremely limited bearded seal hunting by residents of Kaktovik.

Because of the distance from Kaktovik and Kaktovik's very limited use of waters offshore of Prudhoe Bay, and because the planned activities would occur in an already-developed area, it is unlikely that the planned activities would have any effects on the use of marine mammals for subsistence by residents of Kaktovik. Further, the planned activities are not expected to impact marine mammals in numbers or locations sufficient to render them unavailable for subsistence harvest given the short-term, temporary, and localized nature of construction activities, and the planned mitigation measures. Impacts to marine mammals would mostly include limited, temporary behavioral disturbances of seals, with some potential slight PTS within the lower frequencies associated with pile driving. Serious injury or mortality of marine mammals is not anticipated from the planned activities, and the activities are not expected to have any impacts on reproductive or survival rates of any marine mammal

species. Therefore, we do not discuss Kaktovik's subsistence activities further.

Nuiqsut

The planned construction activities would occur closest to the marine subsistence use area used by the Native Village of Nuiqsut. Nuiqsut is located on the west bank of the Nechelik Channel on the lower Colville River, about 25 mi (40 km) from the Arctic Ocean and approximately 150 mi (242 km) southeast of Utqiagvik. Nuiqsut subsistence hunters utilize an extensive search area, spanning 16,322 mi² (km²) across the central Arctic Slope (see Figure 19 of AGDC's application, Brown *et al.*, 2016). Marine mammal hunting is primarily concentrated in two areas: 1) Harrison Bay, between Atigaru Point and Oliktok Point, including a northward extent of approximately 50 mi (80 km) beyond the Colville River Delta (Brown *et al.*, 2016); and 2) east of the Colville River Delta between Prudhoe and Foggy Island bays, which includes an area of approximately 100 square mi surrounding the Midway Islands, McClure Island and Cross Island (Brown *et al.*, 2016). The community of Nuiqsut uses subsistence harvest areas adjacent to the planned construction area; however, West Dock is not a common hunting area, nor is it visited regularly by Nuiqsut subsistence hunters primarily because of its industrial history.

The community of Nuiqsut also harvests ringed, spotted and bearded seals. Seal hunting typically begins in April and May with the onset of warmer temperatures. Many residents continue to hunt seals after spring breakup as well (Brown *et al.*, 2016).

The most important seal hunting area for Nuiqsut hunters is off the Colville Delta, an area extending as far west as Fish Creek and as far east as Pingok Island. Seal hunting search areas by Nuiqsut hunters also included Harrison Bay, and a 30-mi (48-km) stretch northeast of Nuiqsut between the Colville and Kuparuk rivers, near Simpson Lagoon and Jones Islands (Brown *et al.*, 2016). Cross Island is a productive area for seals, but is too far from Nuiqsut to be used on a regular basis. Seal subsistence use areas of Nuiqsut from 1995 through 2006 are depicted in Figure 21 of AGDC's application.

Ringed seals are an important subsistence resource for Native Alaskans living in communities along the Beaufort Sea coast. Nuiqsut residents commonly harvest ringed seal in the Beaufort Sea during the summer months (SRBA 2010). There are a higher number of use areas extending east and

west of the Colville River delta. Residents reported traveling as far as Cape Halkett to the west and Camden Bay to the east in search of ringed seal. Survey respondents reported traveling offshore up to 30 mi (48 km; SRBA 2010). Residents reported hunting ringed seals throughout the late spring, summer, and early fall with a higher number of use areas reported in June, July, and August (SRBA 2010). In 2006, 12 people (36 percent of survey respondents) indicated that they had recently hunted for ringed seals in Nuiqsut (SRBA 2010).

Nuiqsut bearded seal use areas extend as far west as Cape Halkett, as far east as Camden Bay, and offshore up to 40 mi (64 km). In 2006, 12 people (69 percent of survey respondents) indicated that they had recently hunted for bearded seals in Nuiqsut (SRBA 2010). Nuiqsut hunters reported hunting bearded seal during the summer season in open water as the seals are following the ice pack. Residents reported hunting bearded seal between June and September, although a small number of use areas were reportedly used in May and October (SRBA 2010). The number of reported bearded seal use areas peak in July and August, when the majority of seals are available along the ice pack (SRBA 2010).

Nuiqsut's bowhead whale hunt occurs in the fall at Cross Island, a barrier island located approximately 12 mi (19 km) northwest of West Dock. Nuiqsut whalers base their activities from Cross Island (Galginaitis 2014), and the whaling search and the harvest areas typically are concentrated north of the island. Hunting activities between 1997 and 2006 occurred almost as far west as Thetis Island, as far east as Barter Island (Kaktovik), and up to approximately 50 mi (80 km) offshore (SRBA 2010). Harvest locations in 1973–2011 and GPS tracks of 2001–2011 whaling efforts are shown in Figure 19 of AGDC's application.

Bowhead whales are harvested by Nuiqsut whalers during the fall whaling season. Nuiqsut residents typically hunt bowhead whales in September, although a small number of use areas were reported in August and extending into October (SRBA 2010). Pile driving will not occur during Nuiqsut whaling, as stated in the Mitigation Measures section.

Nuiqsut subsistence hunting crews operating from Cross Island have harvested three to four bowhead whales per year (Bacon *et al.*, 2009; Galginaitis 2014). In 2014, the AEWG allocated Nuiqsut a quota of four bowhead whales each year; however, through transfers of quota from other communities, in 2015

Nuiqsut was able to harvest five whales (Brown *et al.*, 2016). In 2006, 10 people (30 percent of survey respondents) in Nuiqsut indicated that they had recently hunted for bowhead whales (SRBA 2010). In 2016, Nuiqsut whaling crews harvested four bowhead whales (Suydam *et al.*, 2017).

Nuiqsut is 70 mi (112 km) away from the planned project, and is likely to be the community that has the greatest potential to experience any impacts to subsistence practices. AGDC asserts that the primary potential for AK LNG project impacts to Nuiqsut's subsistence use of marine mammals is associated with barge activity, which it states could interfere with summer seal and fall bowhead whale hunting (Alaska LNG 2016). As described previously, barging activity is unlikely to incidentally take marine mammals; however, the noise or presence of barges could affect the behavior of whales in a manner that makes successful harvests more difficult. Although barge activities would not cease during Nuiqsut's fall bowhead whale hunting activities, the final IHA requires vessels to transit landward of Cross Island during the entirety of the Nuiqsut whaling season (approximately August 25–September 15, though the exact dates may change).

Pile driving associated with construction at West Dock could affect subsistence hunting of bowhead whales, as the Level B harassment zones extend up to 4.6 km from the pile driving site for some pile and hammer type combinations. As such, AGDC will not pile drive during the Nuiqsut whaling season (see Mitigation Measures). AGDC has consulted with AEWG and NSB on mitigation measures to limit impacts (Alaska LNG 2016), and has continued to provide formal and informal project updates to these groups, and is committed to continuing coordination as described in AGDC's POC.

The planned activities are not expected to impact marine mammals in numbers or locations sufficient to render them unavailable for subsistence harvest given the short-term, temporary, and localized nature of construction activities, and the planned mitigation measures. Impacts to marine mammals would mostly include limited, temporary behavioral disturbances of seals, however, some slight PTS within the lower frequencies associated with pile driving is possible. Serious injury or mortality of marine mammals is not anticipated from the planned activities, and the activities are not expected to have any impacts on reproductive or survival rates of any marine mammal species.

In summary, impacts to subsistence hunting are not expected due to the distance between West Dock construction and primary seal hunting areas, the limited extent of impacts to marine mammals (Level B harassment, and slight Level A harassment for a small number of seals) and planned mitigation during the Nuiqsut bowhead whale hunt.

Mitigation Measures

In order to issue an IHA under Section 101(a)(5)(D) of the MMPA, NMFS must set forth the permissible methods of taking pursuant to the activity, and other means of effecting the least practicable impact on the species or stock and its habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance, and on the availability of the species or stock for 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 the activity or other means of effecting the least practicable adverse impact upon the affected species or stocks and their habitat (50 CFR 216.104(a)(11)).

In evaluating how mitigation may or may not be appropriate to ensure the least practicable adverse impact on species or stocks and their habitat, as well as subsistence uses where applicable, we carefully consider two primary factors:

(1) The manner in which, and the degree to which, the successful implementation of the measure(s) is expected to reduce impacts to marine mammals, marine mammal species or stocks, and their habitat, as well as subsistence uses. This considers the nature of the potential adverse impact being mitigated (likelihood, scope, range). It further considers the likelihood that the measure will be effective if implemented (probability of accomplishing the mitigating result if implemented as planned), the likelihood of effective implementation (probability implemented as planned), and;

(2) The practicability of the measures for applicant implementation, which may consider such things as cost, impact on operations, and, in the case of a military readiness activity, personnel safety, practicality of implementation, and impact on the effectiveness of the military readiness activity.

Mitigation for Marine Mammals and Their Habitat

In addition to the measures described later in this section, AGDC will employ the following mitigation measures:

- Conduct briefings between construction supervisors and crews and the marine mammal monitoring team prior to the start of all pile driving activity and when new personnel join the work, to explain responsibilities,

communication procedures, marine mammal monitoring protocol, and operational procedures;

- For in-water construction, heavy machinery activities other than pile driving, if a marine mammal comes within 10 m (33 ft), operations shall cease and vessels shall reduce speed to the minimum level required to maintain steerage and safe working conditions;
- For those marine mammals for which Level B harassment take has not

been requested, in-water pile installation/removal will shut down immediately when it is safe to do so if such species are observed within or entering the Level B harassment zone; and

- If take reaches the authorized limit for an authorized species, pile installation will be stopped as these species approach the Level B harassment zone to avoid additional take.

TABLE 17—SHUTDOWN ZONES DURING PILE INSTALLATION AND REMOVAL

Activity	Hammer Type	Shutdown Zone (m)		
		LF cetaceans	MF cetaceans	Phocids
11.5-inch H-Pile	Impact	1,200	50	500
14-inch H-Pile	Impact	1,200	50	500
	Vibratory	10	10	10
48-inch Pipe Pile	Impact	1,600	50	500
Sheet Piles	Vibratory	20	10	10
Screeding .....	.....	215	.....	.....

Aircraft must transit at an altitude of 457 m (1,500 ft) or higher, to the extent practicable, while maintaining Federal Aviation Administration flight rules (e.g., avoidance of cloud ceiling, etc.), excluding takeoffs and landing. If flights must occur at altitudes less than 457 m (1,500 ft) due to environmental conditions, aircraft must make course adjustments, as needed, to maintain at least a 457 m (1,500 ft) separation from all observed marine mammals. Helicopters (if used) must not hover or circle above marine mammals. A minimum transit altitude is expected to reduce the potential for disturbance to marine mammals from transiting aircraft.

AGDC is required to implement all mitigation measures described in the biological opinion (issued on June 3, 2020).

The following mitigation measures would apply to AGDC's in-water construction activities.

Establishment of Shutdown Zones—AGDC will establish shutdown zones for all pile driving and removal activities. The purpose of a shutdown zone is generally to define an area within which shutdown of the activity would occur upon sighting of a marine mammal (or in anticipation of an animal entering the defined area). Shutdown zones will vary based on the activity type and marine mammal hearing group (see Table 17). The largest shutdown zones are generally for low frequency cetaceans as shown in Table 17. In this instance, the largest shutdown zone for low frequency cetaceans is 1,600 m. AGDC expects that they will be able to

effectively observe phocids at distances up to 500 m, large cetaceans at 2–4 km, and belugas at 2–3 km.

The placement of PSOs during all pile driving and removal activities (described in detail in the Monitoring and Reporting section) will ensure that the entire shutdown zone is visible during pile installation. If visibility degrades to where the PSO determines that they cannot effectively monitor the entire shutdown zone during pile driving, the applicant may continue to drive the pile section that was being driven to its target depth when visibility degraded to unobservable conditions, but will not drive additional sections of pile. Pile driving may continue during low light conditions to allow for the evaluation of NVDs and IR sensing devices.

Monitoring for Level A and Level B Harassment—AGDC will monitor the Level B harassment zones (areas where SPLs are equal to or exceed the 160 dB rms threshold for impact driving and the 120 dB rms threshold during vibratory driving) and Level A harassment zones, to the extent practicable. Monitoring the Level A and Level B harassment zones enables observers to be aware of and communicate the presence of marine mammals in the project area outside the shutdown zone and thus prepare for a potential shutdown of activity should the animal enter the shutdown zone. Placement of PSOs on elevated structures on West Dock will allow PSOs to observe phocids within the Level A and Level B harassment zones, to an estimated distance of 500 m.

However, due to the large Level A and Level B harassment zones (Table 6), PSOs will not be able to effectively observe the entire zones during all activities for all species. Therefore, marine mammal exposures within the visible portion of the harassment zones will be recorded, and potential exposures within the entire harassment zones will be estimated based upon the number of observed exposures and the percentage of the Level A or Level B harassment zone that was not visible. AGDC will also conduct acoustic monitoring as described in the Monitoring and Reporting section, below.

Pre-activity Monitoring—Prior to the start of daily in-water construction activity, or whenever a break in pile driving or removal of 30 minutes or longer occurs, PSOs will observe the shutdown zone and the visible portions of the Level A and Level B harassment zones for a period of 30 minutes. If a marine mammal is observed within the shutdown zone, a soft-start cannot proceed until the animal has left the zone or has not been observed for 15 minutes (pinnipeds) or 30 minutes (cetaceans). When a marine mammal for which Level B harassment take is authorized is present in the Level B harassment zone, activities may begin and Level B harassment take will be recorded. If the entire Level B harassment zone is not visible at the start of construction pile driving or removal activities can begin. If work ceases for more than 30 minutes, the pre-activity monitoring of both the Level

B harassment zone and shutdown zones will commence.

Nighttime Monitoring—PSOs will use NVDs and IR for nighttime and low visibility monitoring. AGDC will select devices for monitoring, and will test the devices to determine the efficacy of the monitoring equipment and technique. For a detailed explanation of AGDC's plan to test the NVDs and IR equipment, please see AGDC's 4MP, available online at <https://www.fisheries.noaa.gov/national/marine-mammal-protection/incidental-take-authorizations-other-energy-activities-renewable>. (Please note that AGDC will not assess object detection at distance intervals using buoys as stated in the 4MP. Rather, they will test object detection on land using existing landmarks at known distances from PSOs, such as road signs.)

Soft Start—Soft-start procedures are believed to provide additional protection to marine mammals by providing warning and/or giving marine mammals a chance to leave the area prior to the hammer operating at full capacity. For impact pile driving, contractors will be required to provide an initial set of three strikes from the hammer at reduced energy, followed by a 30-second waiting period. This procedure will be conducted three times before impact pile driving begins. Soft start will be implemented at the start of each day's impact pile driving and at any time following cessation of impact pile driving for a period of thirty minutes or longer.

Pile Driving During Contingency Period—In the event that AGDC must continue pile driving or removal during their contingency period (February–April 2024), AGDC must begin pile driving before March 1, the known onset of ice seal lairing season. Initiating pile driving before March 1 is expected to discourage seals from establishing birthing lairs near pile driving. Discouraging seals from establishing birthing lairs near pile driving will likely reduce potential instances of take by Level B harassment by reducing the likelihood of an individual seal occurring within the Level B harassment zone on multiple occasions, which would be far more likely if seals established lairs within the zone. Additionally, a subsistence advisor would survey areas within a buffer zone of DH4 where water depth is greater than 10 ft (3 m) to identify potential ringed seal structures before activity begins. Construction crews must avoid identified ice seal structures by a minimum of 500 ft. (150 m). NMFS expects these measures to prevent

physical interaction between seals and construction equipment.

AGDC does not plan to use a bubble curtain or other sound attenuation device, and NMFS concurs that sound attenuation is not appropriate for this project for the reasons described in NMFS' response to Comment 5 in the Comments and Responses section.

Mitigation for Subsistence Uses of Marine Mammals or Plan of Cooperation

Regulations at 50 CFR 216.104(a)(12) further require IHA applicants conducting activities in or near a traditional Arctic subsistence hunting area and/or that may affect the availability of a species or stock of marine mammals for Arctic subsistence uses to provide a POC or information that identifies what measures have been taken and/or will be taken to minimize adverse effects on the availability of marine mammals for subsistence purposes. A plan must include the following:

- A statement that the applicant has notified and provided the affected subsistence community with a draft POC;
- A schedule for meeting with the affected subsistence communities to discuss planned activities and to resolve potential conflicts regarding any aspects of either the operation or the POC;
- A description of what measures the applicant has taken and/or will take to ensure that planned activities will not interfere with subsistence whaling or sealing; and
- What plans the applicant has to continue to meet with the affected communities, both prior to and while conducting the activity, to resolve conflicts and to notify the communities of any changes in the operation.

AGDC provided a draft POC to NMFS on March 27, 2019 and submitted revised versions on February 7, 2020, November 16, 2020, December 21, 2020, and most recently, January 4, 2021. The POC outlines AGDC's extensive coordination with subsistence communities that may be affected by the AK LNG project. It includes a brief description of the project, community outreach that has already been conducted, as well as the concerns raised in those discussions and how they were addressed, and project mitigation measures. AGDC will continue coordination with subsistence communities throughout the project duration, and will develop a Communications Plan in coordination with subsistence groups, as described below and in the POC. The POC is a living document and has been updated

throughout the project review and permitting process. The final IHA includes a requirement stating that AGDC must conduct the communication and coordination as described in the POC, which is available on our website at <https://www.fisheries.noaa.gov/permit/incidental-take-authorizations-under-marine-mammal-protection-act>.

AGDC continues to document its communications with the North Slope subsistence communities, as well as the substance of its communications with subsistence stakeholder groups, and has developed mitigation measures that include measures suggested by community members as well as industry standard measures. AGDC will continue to routinely engage with local communities and subsistence groups. Multiple user groups are often consulted simultaneously as part of larger coalition meetings such as the Arctic Safety Waterways Committee meetings. Local communities and subsistence groups identified by AGDC are listed in the POC. AGDC will develop a Communication Plan and will implement this plan before initiating construction operations to coordinate activities with local subsistence users, as well as Village Whaling Captains' Associations, to minimize the risk of interfering with subsistence hunting activities, and keep current as to the timing and status of the bowhead whale hunt and other subsistence hunts. A project informational mailer with a request for community feedback (traditional mail, email, phone) will be sent to community members prior to construction. Following the construction season, AGDC intends to have a post-season co-management meeting with the commissioners and committee heads to discuss results of mitigation measures and outcomes of the preceding season. The goal of the post-season meeting is to build upon the knowledge base, discuss successful or unsuccessful outcomes of mitigation measures, and possibly refine plans or mitigation measures if necessary.

The AEWK works annually with industry partners to develop a CAA. This agreement implements mitigation measures that allow industry to conduct their work in or transiting the vicinity of active subsistence hunters, in areas where subsistence hunters anticipate hunting, or in areas that are in sufficient proximity to areas expected to be used for subsistence hunting where the planned activities could potentially adversely affect the subsistence bowhead whale hunt through effects on bowhead whales, while maintaining the availability of bowheads for subsistence hunters. AGDC is required to enter the

CAA for the construction year by an order from the FERC.

AGDC will not conduct pile driving during the Nuiqsut whaling season in an effort to eliminate effects on the availability of bowhead whales for subsistence hunting that could occur as a result of project noise. Nuiqsut whaling is approximately August 25–September 15, though the exact dates may change.

Barging activities could potentially impact Nuiqsut's fall bowhead whale hunt and possibly other marine mammal harvest activities in the Beaufort Sea. As mentioned previously, barging activities are beyond the scope of this IHA, and no take is expected to occur as a result of barging activities. However, the final IHA requires AGDC to limit barges to waters landward of Cross Island during the Nuiqsut whaling season (approximately August 25–September 15, though the exact dates may change) in an effort to avoid any potential impacts on subsistence uses. AGDC has consulted with AEWC and NSB on mitigation measures to limit impacts (Alaska LNG 2016), and has continued to provide formal and informal project updates to these groups, as recently as October 2020. As described above in the Effects of Specified Activities on Subsistence Uses of Marine Mammals section, AGDC's construction activities at West Dock do not overlap with the areas where subsistence hunters typically harvest ice seals, and given the extent of impacts to seals described in that section, these activities are not expected to impact subsistence hunts of ice seals. Therefore, the final IHA does not include mitigation measures for subsistence harvest of ice seals; however, AGDC will continue to meet with subsistence groups, including the Ice Seal Committee, as described in the POC.

Based on our evaluation of the applicant's planned measures, as well as other measures considered by NMFS, NMFS has determined that the planned 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, and on the availability of such species or stock for subsistence uses.

Monitoring and Reporting

In order to issue an IHA for an activity, Section 101(a)(5)(D) of the MMPA states that NMFS must set forth requirements pertaining to the monitoring and reporting of such taking. The MMPA implementing regulations at

50 CFR 216.104 (a)(13) indicate that requests for authorizations must include the suggested means of accomplishing the necessary monitoring and reporting that will result in increased knowledge of the species and of the level of taking or impacts on populations of marine mammals that are expected to be present in the planned 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.

Visual Monitoring

Marine mammal monitoring must be conducted in accordance with the Marine Mammal Monitoring Plan, available online at <https://www.fisheries.noaa.gov/national/marine-mammal-protection/incidental-take-authorizations-other-energy-activities-renewable>. Marine mammal monitoring during pile driving and removal must be conducted by NMFS-approved PSOs in a manner consistent with the following:

- Independent PSOs (*i.e.*, not construction personnel) who have no

other assigned tasks during monitoring periods must be used;

- At least one PSO must have prior experience performing the duties of a PSO during construction activity pursuant to a NMFS-issued incidental take authorization.
 - Where a team of three or more PSOs are required, a lead observer or monitoring coordinator must be designated. The lead observer must have prior experience working as a marine mammal observer during construction;
 - Other PSOs may substitute education (degree in biological science or related field) or training for experience.
 - PSOs may also substitute Alaska native traditional knowledge for experience. (NMFS recognizes that PSOs with traditional knowledge may also have prior experience, and therefore be eligible to serve as the lead PSO.); and
 - AGDC must submit PSO curriculum vitae for approval by NMFS prior to the onset of pile driving.
- PSOs should have the following additional qualifications:
 - Ability to conduct field observations and collect data according to assigned protocols;
 - Experience or training in the field identification of marine mammals, including the identification of behaviors;
 - Sufficient training, orientation, or experience with the construction operation to provide for personal safety during observations;
 - Writing skills sufficient to prepare a report of observations including but not limited to the number and species of marine mammals observed; dates and times when in-water construction activities were conducted; dates, times, and reason for implementation of mitigation (or why mitigation was not implemented when required); and marine mammal behavior; and
 - Ability to communicate orally, by radio or in person, with project personnel to provide real-time information on marine mammals observed in the area as necessary.
- At least two PSOs will be present during all pile driving/removal activities. PSOs will have an unobstructed view of all water within the shutdown zone. PSOs will observe as much of the Level A and Level B harassment zone as possible. PSO locations are as follows:
 - i. Dock Head 4—During impact pile driving at DH4, two PSOs must be stationed to view toward the east, north, and west of the seawater treatment plant. During vibratory pile driving at

DH4, two PSOs must monitor from each PSO location (four PSOs); and

ii. Barge Bridge—During work at the barge bridge, two PSOs must be stationed at the north end of the bridge.

PSOs will be stationed on elevated platforms at DH4, and on the elevated bridge during work at the barge bridge. They will possess the equipment described in the 4MP, including NVDs during nighttime monitoring. However, during the primary construction season, nighttime on the North Slope will be brief. Given the elevated PSO sites and equipment, AGDC expects that they will be able to effectively observe phocids at distances up to 500 m, large cetaceans at 2–4km, and belugas at 2–3km, however, PSOs will not be able to effectively observe the entire area of the Level A (seals only) or Level B harassment zones during all pile driving activities.

PSOs will begin monitoring three days prior to the onset of pile driving and removal activities and continue through three days after completion of the pile driving and removal activities. PSOs will monitor 24 hours per day, even during periods when construction is not occurring. In addition, observers shall record all incidents of marine mammal occurrence, regardless of distance from activity, and shall document any behavioral reactions in concert with distance from piles being driven or removed. Pile driving activities include the time to install or remove a single pile or series of piles, as long as the time elapsed between uses of the pile driving equipment is no more than 30 minutes.

Acoustic Monitoring

Acoustic monitoring, to be conducted for purposes of measuring sound source levels and sound propagation, must be conducted in accordance with accepted methodology as described in an Acoustic Monitoring Plan, which AGDC must develop after its contractor is selected. The plan must be reviewed by NMFS, the NSB, and the AEW, and approved by NMFS. AGDC must conduct acoustic monitoring for the number of each pile type and size indicated in the approved plan. NMFS may adjust the shutdown zones and revise the Level A and Level B harassment zones, as appropriate, pending review and approval of the results of acoustic monitoring.

AGDC will also conduct PAM for marine mammals. AGDC will deploy three hydrophones during the open-water season to monitor for marine mammals, in accordance with the Marine Mammal Monitoring and Mitigation Plan, dated December 21,

2020 and the Acoustic Monitoring Plan referenced above. This PAM is intended to inform the estimate of marine mammals in the Level B harassment zone, given that PSOs are not able to observe the entire zone for all species and activities.

AGDC will deploy the hydrophones in the locations recommended by the PRP, as shown in Figure 4 of its Marine Mammal Monitoring and Mitigation Plan (dated December 21, 2020), and will adjust the locations as appropriate if the Level B harassment zones are adjusted following SSV results. AGDC will deploy the PAM recorders three days prior to the start of pile driving, and will retrieve them three days after completion of pile driving during the open-water season.

Should construction be required during the contingency period when there will be ice-cover, AGDC will deploy one hydrophone at the end of the open-water season, located in between the 2,200 m and 4,700 m zones, perpendicular to the pile driving site. The location must be reviewed by NMFS, the NSB, and the AEW, and approved by NMFS prior to deployment. Additional hydrophones during the contingency period are not warranted, as, as we do not expect cetaceans to be present in the area during this time (Quakenbush *et al.*, 2018, Citta *et al.*, 2016) and while ringed seals likely will be present, few, if any, spotted or bearded seals are likely to be present during that time (Bengston *et al.*, 2005; Lowry *et al.*, 1998; Simpkins *et al.*, 2003).

Reporting

A draft marine mammal monitoring report will be submitted to NMFS within 90 days after the completion of marine mammal and acoustic monitoring or 60 days prior to the issuance of any subsequent IHA for this project, whichever comes first. The report will include an overall description of work completed, a narrative regarding marine mammal sightings, and associated PSO data sheets. Specifically, the report must include:

- Dates and times (begin and end) of all marine mammal monitoring;
- Construction activities occurring during each daily observation period, including precise start and stop time of each type of construction operation mode, how many and what type of piles were driven or removed and by what method (*i.e.*, impact or vibratory);
- Total number of hours during which each construction activity type occurred;

- Total number of hours that PSOs were on duty during each construction activity, and total number of hours that PSOs were on duty during periods of no construction activity;

- Weather parameters and water conditions during each monitoring period (*e.g.*, wind speed, percent cover, visibility, sea state), and number of hours of observation that occurred during various visibility and sea state conditions;

- The number of marine mammals observed, by species and operation mode, relative to the pile location, and if pile driving or removal was occurring at time of sighting;

- The number of marine mammals observed (including periods with no construction);

- Age and sex class, if possible, of all marine mammals observed;

- PSO locations during marine mammal monitoring, including elevation above sea level;

- Distances and bearings of each marine mammal observed to the pile being driven or removed for each sighting (if pile driving or removal was occurring at time of sighting);

- Description of any marine mammal behavior patterns during observation, including direction of travel and estimated time spent within the Level A and Level B harassment zones while the source was active;

- Number of individuals of each species (differentiated by month as appropriate) detected within the Level A and Level B harassment zones;

- Histograms of perpendicular distances to PSO sightings, by species (or species group if sample sizes are small);

- Sighting rates summarized into daily or weekly periods for the before, during, and after construction periods;

- Maps showing visual detections by species and construction activity type.

- Detailed information about any implementation of any mitigation triggered (*e.g.*, shutdowns and delays), a description of specific actions that ensued, and resulting behavior of the animal, if any;

- Description of attempts to distinguish between the number of individual animals taken and the number of incidences of take, such as ability to track groups or individuals;

- An estimation of potential takes, by species, by Level A and Level B harassment based on the number of observed exposures within the Level A and Level B harassment zones and the percentages of the Level A and Level B harassment zones that were not visible; and

- Submit all PSO datasheets and/or raw sighting data (in a separate file from the Final Report referenced immediately above).

If no comments are received from NMFS within 30 days, the draft report will constitute the final report. If comments are received, a final report addressing NMFS comments must be submitted within 30 days after receipt of comments.

For the SSV, AGDC's acoustic monitoring report must, at minimum, include the following:

- Hydrophone equipment and methods: Recording device, sampling rate, distance (m) from the pile where recordings were made; depth of recording device(s).
- Type and size of pile being driven, substrate type, method of driving during recordings.
- For impact pile driving: Pulse duration and mean, median, and maximum sound levels (dB re: 1 μ Pa): Cumulative sound exposure level (SELcum), peak sound pressure level (SPLpeak), root-mean-square sound pressure level (SPL_{rms}), and single-strike sound exposure level (SELs-s).
- For vibratory driving/removal: Mean, median, and maximum sound levels (dB re: 1 μ Pa): SPL_{rms}, SELcum, and timeframe over which the sound is averaged.
- Number of strikes (impact) or duration (vibratory) per pile measured, one-third octave band spectrum, power spectral density plot.
- Estimated source levels referenced to 10 m, transmission loss coefficients, and estimated Level A and Level B harassment zones.

For the PAM for marine mammals, AGDC's acoustic monitoring report must, at minimum, include the following:

- Number of marine mammal detections (including species, date and time of detections, and type of pile driving underway during each detection, if applicable).
- Detection rates summarized into daily or weekly periods for the before, during, and after construction periods.
- Received sound levels from pile driving activity.
- The following hydrophone equipment and method information: Recording devices, sampling rate, sensitivity of the PAM equipment, locations of the hydrophones, duty cycle, distance (m) from the pile where recordings were made, depth of recording devices, depth of water in area of recording devices.

In the event that personnel involved in the construction activities discover an injured or dead marine mammal, the

IHA-holder shall report the incident to the Office of Protected Resources (OPR) (301-427-8401), NMFS and to the Alaska regional stranding coordinator (907-586-7209) as soon as feasible. If the death or injury was clearly caused by the specified activity, the IHA-holder must immediately cease the specified activities until NMFS is able to review the circumstances of the incident and determine what, if any, additional measures are appropriate to ensure compliance with the terms of the IHA. The IHA-holder must not resume their activities until notified by NMFS.

The report must include the following information:

- Time, date, and location (latitude/longitude) of the first discovery (and updated location information if known and applicable);
- Species identification (if known) or description of the animal(s) involved;
- Condition of the animal(s) (including carcass condition if the animal is dead);
- Observed behaviors of the animal(s), if alive;
- If available, photographs or video footage of the animal(s); and
- General circumstances under which the animal was discovered.

Monitoring Plan Peer Review

The MMPA requires that monitoring plans be independently peer reviewed where the proposed activity may affect the availability of a species or stock for taking for subsistence uses (16 U.S.C. 1371(a)(5)(D)(ii)(III)). Regarding this requirement, NMFS' implementing regulations state that upon receipt of a complete monitoring plan, and at its discretion, NMFS will either submit the plan to members of a PRP for review or within 60 days of receipt of the proposed monitoring plan, schedule a workshop to review the plan (50 CFR 216.108(d)).

NMFS established an independent PRP to review AGDC's Monitoring Plan for the planned project in Prudhoe Bay. NMFS provided AGDC's monitoring plan to the PRP and asked them to answer the following questions:

1. Will the applicant's stated objectives effectively further the understanding of the impacts of their activities on marine mammals and otherwise accomplish the goals stated below? If not, how should the objectives be modified to better accomplish the goals below?
2. Can the applicant achieve the stated objectives based on the methods described in the plan?
3. Are there technical modifications to the proposed monitoring techniques and methodologies proposed by the

applicant that should be considered to better accomplish the objectives?

4. Are there techniques not proposed by the applicant (*i.e.*, additional monitoring techniques or methodologies) that should be considered for inclusion in the applicant's monitoring program to better accomplish the objectives?

5. What is the best way for an applicant to present their data and results (formatting, metrics, graphics, *etc.*) in the required reports that are to be submitted to NMFS (*i.e.*, 90-day report)?

The PRP met in March 2020 and subsequently provided a final report to NMFS containing recommendations that the panel members felt were applicable to AGDC's monitoring plan. The panel concluded that the objectives are appropriate; however, they provided some recommendations to improve AGDC's ability to achieve their stated objectives. The PRP's primary recommendations and comments are summarized and addressed below. The PRP's full report is available on our website at <https://www.fisheries.noaa.gov/permit/incidental-take-authorizations-under-marine-mammal-protection-act>.

The PRP recommended that AGDC station PSOs on elevated platforms to increase sighting distance. NMFS agrees, and the final IHA requires AGDC to provide elevated monitoring locations for PSOs. The structures would vary depending on the construction location.

The PRP recommended that PSOs focus on scanning the shoreline and water, alternately with visual scans and using binoculars, to detect as many animals as possible rather than following individual animals for any length of time to collect detailed behavioral information. NMFS requires PSOs to document and report the behavior of marine mammals observed within the Level A and Level B harassment zones. While NMFS agrees that PSOs should not document behavior at the expense of detecting other marine mammals, particularly within the shutdown zone, we are asking PSOs to record an estimate of the amount of time that an animal spends in the harassment zone, which is important to help understand the likelihood of incurring PTS (given the duration component of the thresholds) and the severity of behavioral disturbance.

The PRP recommended that the PSOs record visibility conditions at regular intervals (*e.g.*, every five minutes) and as they change throughout the day. The panel recommended using either laser range finders or a series of "landmarks"

at varying distances from each observer. The PRP notes that if AGDC uses landmarks, AGDC could measure the distance to the landmarks on the ground before pile driving or removal begins, and reference these landmarks throughout the season to record visibility. The landmarks could be buildings, signs, or other stationary objects on land that are located at increasing distances from each observation platform. PSOs should record visibility according to the farthest landmark the laser range finder can detect or that the PSO can clearly see. In the final IHA, NMFS has required AGDC to record visibility conditions throughout construction; however, NMFS has required PSOs to record visibility every 30 minutes, rather than every five minutes, in an effort to minimize distraction from observing marine mammals. PSOs will be equipped with range finders, and will establish reference landmarks on land.

The PRP recommended that AGDC have a designated person on site keeping an activity log that includes the precise start and stop dates and times of each type of construction operation mode. AGDC's field lead PSO will record this information during construction.

The PRP commended AGDC's proposed use and experimentation with NVD and IR technology. The panel noted that there are many devices with a broad range of capabilities that should be thoroughly understood before the experiment is conducted. AGDC will select the most effective devices based on surveys of experienced PSOs and literature provided by the panel.

The PRP expressed concern about the limited effective visual detection range of the PSOs in comparison with the estimated size of the Level A and Level B harassment zones, including AGDC's ability to shut down at the proposed distances, and AGDC's ability to estimate actual Level A and Level B harassment takes. The panel noted that effective sighting distances are likely 200 m for seals, and 1 km for mysticetes, based on ship-based PSO observations in the Chukchi Sea (LGL *et al.* 2011). They noted that the effective sighting distance for beluga whales may be greater than 200 m, although visibility would likely decrease in windy conditions with white caps (DeMaster *et al.*, 2001). The panel recommended that AGDC implement real-time PAM to verify the harassment zone sizes, and to improve detection of marine mammals at distances where visual detection probability is limited or not possible. The panel recommended that AGDC

begin PAM two to three weeks prior to the start of construction and continue through two to three weeks after construction activities conclude for the season. They recommended archival bottom mounted recorders as an alternative to real-time PAM, but noted that these setups are not as easy to relocate and that data can only be accessed after recovery.

In a related comment, the panel recommended that AGDC report total estimated Level A and Level B harassment takes using two methods. First, the panel recommended that AGDC assume that animal density is uniform throughout the Level B harassment zone and use distance sampling methods, such as Burt *et al.*, 2014, based only on the shore-based PSO observations to estimate actual takes by Level B harassment. Second, the PRP recommended that AGDC also use real-time PAM to estimate takes by Level B harassment only in the far field, assuming that each acoustic detection that occurs during pile driving or removal is a Level B harassment take.

In consideration of the effective sighting distances included in the PRP report, and estimated effective sighting distances from the applicant, NMFS has acknowledged the shorter likely sighting distances (via the potential takes by Level A harassment considered in the analysis) and has included a shutdown zone for phocids during impact pile driving of 500 m, as stated herein (and included in the proposed IHA), which is expected to be visible to PSOs. While this distance is greater than the 200 m estimated by the PRP, shore-based PSOs typically have greater visibility. Additionally, AGDC's PSOs will observe from elevated locations.

NMFS did not require AGDC to report Level A and Level B harassment takes using distance sampling methods, as NMFS does not believe that it is appropriate to apply precise distance sampling methods intended for systematic surveys to estimating take numbers in this situation. As noted by the panel, the assumption of uniform density throughout the Level A and Level B harassment zones is not likely appropriate for this project, given varying habitat attributes throughout the zones such as distance from the shore and water depth. The pile driving and removal activities are likely to further affect the distribution within the zones. However, as a simpler alternative to help understand the potential exposures within the unseen area, NMFS has required AGDC to include an estimation of potential takes by Level A and Level B harassment based on the number of observed exposures within the Level A

or Level B harassment zone and the percentage of the Level A or Level B harassment zone that was not visible in their final report.

The final IHA does not require AGDC to implement real-time PAM (see below). However, the final IHA does require AGDC to conduct a SSV at the start of construction, and as appropriate, NMFS may update the Level A and Level B harassment zones and shutdown zones based on the SSV results. Additionally, the final IHA does require AGDC to deploy three archival PAM receivers during the open water season (rather than a single, archival PAM receiver as stated in the notice of the proposed IHA) to collect data that indicates the presence of marine mammals. As stated previously, the PRP recommended archival bottom mounted recorders as an alternative to real-time PAM, although AGDC will deploy these in stationary locations, rather than relocating the receivers for various construction activities as recommended by the PRP. If NMFS updates the Level B harassment zones following review of the SSV results, the hydrophones may be relocated, as described in AGDC's monitoring plan. AGDC will implement the majority, if not all, of the proposed pile driving and removal during the open water season. Since AGDC would need to deploy the PAM system after ice melt, deploying it two to three weeks before and after the construction period would narrow AGDC's open water work window by at least one month. Additionally, while AGDC's construction is occurring within a limited timeframe, other companies have operations in the area also, which may interfere with the ability to gather baseline data regarding marine mammal presence without interference from other industrial activities. Marine mammals in the project area are migratory, so presence within the work area would change throughout the suggested monitoring period, even if AGDC was not conducting the activity. As such, the Final IHA requires AGDC to deploy the three archival PAM receivers for three days prior to the start of construction, through construction, and for three days after completion of construction activities, rather than only during the active construction period only as stated in the proposed IHA. AGDC will deploy the hydrophones in the locations suggested by the PRP as recommended by the PRP and indicated in Figure 4 of AGDC's December 2020 4MP. If the Level A and Level B harassment zones are updated based on SSV results, the hydrophones may be relocated, as appropriate.

If construction during the contingency period is necessary, AGDC will deploy one overwintering hydrophone at the end of the open-water season for monitoring during the contingency period. Additional hydrophones during the contingency period are not warranted, as we do not expect cetaceans to be present in the area during this time (Quakenbush *et al.*, 2018, Citta *et al.*, 2016) and while ringed seals likely will be present, few, if any, spotted or bearded seals are likely to be present during that time (Bengston *et al.*, 2005; Lowry *et al.*, 1998; Simpkins *et al.*, 2003). A location for the contingency period hydrophone would be selected closer to construction, and must be reviewed by NMFS, the NSB, and the AEW, and approved by NMFS prior to deployment.

Real-time PAM might be helpful if there were a limited ability to detect animals using other methods as required to support the implementation of mitigation action, such as shutting down operations at the time that a detection occurs. However, in this instance, visual monitoring by PSOs can adequately detect marine mammals and minimize Level A harassment take, and the authorization includes Level A harassment take of ice seals. Further, the operation of real-time PAM is significantly more costly than collecting PAM data for later analyses, as someone would need to monitor the data in real-time, and the PAM buoys would need to be relocated for changes in Level A and Level B harassment zone sizes between various pile sizes and installation or removal methods. Given the limitations described above, and the limited additional detection value added by the addition of real-time PAM in these circumstances, implementation of real-time PAM is not warranted in light of the associated cost and effort.

The PRP also recommended that PSOs observations begin 2–3 weeks prior to construction, continue through the construction season, and continue for 2–3 weeks after the construction season ends. Given that ice conditions in the weeks leading up to the construction period will differ from that during construction (as will ice seal presence), NMFS has required PSOs to observe from shore during the three days before construction begins, and for three additional days after the construction season ends, rather than 2–3 weeks. During the construction season, NMFS has required PSOs to monitor 24 hours per day, even during periods without construction.

The PRP also made recommendations regarding how AGDC should present their monitoring data and results. Please

refer to part V of the report for those suggestions. As stated in the notice of the proposed IHA, AGDC will implement the reporting recommendations that do not require PAM as stated in the recommendations. At the time of publication of the proposed IHA, NMFS was still considering whether reporting recommendations h–j were appropriate for inclusion in the IHA. The final IHA requires AGDC to conduct the reporting in recommendations i and j (report received sound levels, propagation loss, isopleth distances and sound source levels, as well as sighting and acoustic detection rates summarized into daily or weekly periods for the before, during and after construction periods). However, NMFS is not requiring AGDC to include maps showing acoustic detections by species and construction activity type (part of recommendation h), as AGDC does not intend to set the hydrophones up as a localization array, and therefore, the data will not be appropriate for reporting specific locations of marine mammal detections.

Negligible Impact Analysis and Determination

NMFS has defined negligible impact as an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival (50 CFR 216.103). A negligible impact finding is based on the lack of likely adverse effects on annual rates of recruitment or survival (*i.e.*, population-level effects). An estimate of the number of takes alone is not enough information on which to base an impact determination. In addition to considering estimates of the number of marine mammals that might be “taken” through harassment, NMFS considers other factors, such as the likely nature of any responses (*e.g.*, intensity, duration), the context of any responses (*e.g.*, critical reproductive time or location, migration), as well as effects on habitat, and the likely effectiveness of the mitigation. We also assess the number, intensity, and context of estimated takes by evaluating this information relative to population status. Consistent with the 1989 preamble for NMFS’s implementing regulations (54 FR 40338; September 29, 1989), the impacts from other past and ongoing anthropogenic activities are incorporated into this analysis via their impacts on the environmental baseline (*e.g.*, as reflected in the regulatory status of the species, population size and growth rate where known, ongoing

sources of human-caused mortality, or ambient noise levels).

To avoid repetition, the majority of our analyses apply to all of the species listed in Table 16, given that many of the anticipated effects of this project on different marine mammal stocks are expected to be relatively similar in nature. Where there are meaningful differences between species or stocks in anticipated individual responses to activities, impact of expected take on the population due to differences in population status or impacts on habitat, they are described independently in the analysis below.

Pile driving and removal activities associated with the project, as outlined previously, have the potential to disturb or temporarily displace marine mammals. Specifically, the specified activities may result in take, in the form of Level A and Level B harassment, from underwater sounds generated from pile driving and removal. Potential takes could occur if individuals of these species are present in zones ensounded above the thresholds for Level A or Level B harassment, identified above, when these activities are underway. While AGDC may pile drive at any time of day (24 hours per day), we do not expect noise-producing pile driving will actually occur at all times during a 24-hour period, given the general construction process, including time for setting up piles for installation.

The takes from Level A and Level B harassment will be due to potential behavioral disturbance, TTS and PTS. No mortality or serious injury is anticipated given the nature of the activity. Level A harassment is only anticipated for ringed seal, spotted seal, and bearded seal. The potential for Level A harassment is minimized through the construction method and the implementation of the required mitigation measures (see Mitigation Measures).

Effects on individuals that are taken by Level B harassment, on the basis of reports in the literature as well as monitoring from other similar activities, will likely be limited to reactions such as increased swimming speeds, increased surfacing time, or decreased foraging (if such activity were occurring) (*e.g.*, Thorson and Reyff 2006; HDR, Inc. 2012; Lerma 2014; ABR 2016). Most likely for pile driving, individuals will simply move away from the sound source and be temporarily displaced from the areas of pile driving, although even this reaction has been observed primarily only in association with impact pile driving, which is just a portion of AGDC’s construction. Level B harassment will be reduced to the level

of least practicable adverse impact through use of mitigation measures described herein. If sound produced by project activities is sufficiently disturbing, animals are likely to simply avoid the area while the activity is occurring. While vibratory driving associated with the project may produce sound at distances of many km from the project site, the project site itself is located in an active industrial area, as previously described. Therefore, we expect that animals disturbed by project sound will simply avoid the area and use more-preferred habitats.

In addition to the expected effects resulting from authorized Level B harassment, we anticipate that ringed seals, spotted seals, and bearded seals may sustain some limited Level A harassment in the form of auditory injury. However, animals that experience PTS will likely only receive slight PTS, *i.e.* minor degradation of hearing capabilities within regions of hearing that align most completely with the frequency range of the energy produced by pile driving, *i.e.* the low-frequency region below 2 kHz, not severe hearing impairment or impairment in the regions of greatest hearing sensitivity. If hearing impairment occurs, it is most likely that the affected animal will lose a few dB in its hearing sensitivity, which in most cases is not likely to meaningfully affect its ability to forage and communicate with conspecifics.

Habitat disturbance and alteration resulting from project activities could have a few highly localized, short-term effects for a few marine mammals; however, the area of affected habitat would be small compared to that available to marine mammal species. The activities may cause some fish to leave the area of disturbance, thus temporarily impacting marine mammals' foraging opportunities in a limited portion of the foraging range. We do not expect pile driving activities to have significant, long-term consequences to marine invertebrate populations. Given the short duration of the activities and the relatively small area of the habitat that may be affected, the impacts to marine mammal habitat, including fish and invertebrates, are not expected to cause significant or long-term negative consequences to marine mammals or to populations of fish or invertebrate species.

AGDC's February to April pile driving contingency period overlaps with the period when ringed seals are constructing subnivean lairs, giving birth, and nursing pups. As discussed in the Mitigation Measures section, AGDC will be required to begin construction

prior to March 1 when ringed seals are known to begin constructing lairs. As such, we expect that ringed seals will construct their lairs away from the pile driving operations, therefore minimizing disturbance and avoiding any potential for physical injury to seals in lairs. Additionally, we expect that AGDC will complete the majority, if not all of the pile driving during the open water season, so any pile driving that did remain could likely be completed in the earlier portion of the contingency period, further reducing the potential for impacts to ringed seals while lairing or pupping.

As stated in the Description of Marine Mammals in the Area of Specified Activities section, since publication of the proposed IHA (85 FR 43382; July 16, 2020), NMFS published a proposed rule for the Designation of Critical Habitat for the Beringia DPS of the Bearded Seal (86 FR 1433; January 8, 2021) and a revised proposed rule for the Designation of Critical Habitat for the Arctic Subspecies of the Ringed Seal (86 FR 1452; January 8, 2021). NMFS considered the information provided in each proposed rule, and determined that neither proposed rule presents new information that changes NMFS' analyses, the take estimates, or any of the findings, for either species.

As described in the notice of the proposed IHA (85 FR 43382; July 16, 2020), unusual mortality events (UMEs) have been declared for both gray whales and ice seals; however, the take authorized here does not provide a cause for concern for any of these populations when considered in the context of these UMEs. For gray whales, the estimated abundance of the Eastern North Pacific stock is 26,960 (Carretta *et al.*, 2019) and the stock abundance has increased approximately 22 percent in comparison with 2010/2011 population levels (Durban *et al.*, 2017). For bearded seals, the minimum estimated mean M/SI (6,709) is well below the calculated partial PBR (8,210). This PBR is only a portion of that of the entire stock, as it does not include bearded seals that overwinter and breed in the Beaufort or Chukchi Seas (Muto *et al.*, 2019). For the Alaska stock of ringed seals and the Alaska stock of spotted seals, the M/SI (863 and 5,254, respectively) is well below the PBR for each stock (5,100 and 12,697, respectively) (Muto *et al.*, 2019). No serious injury or mortality is expected or authorized here, and Level B harassment takes of gray whale and ice seal species, and Level A harassment takes of ice seals will be reduced to the level of least practicable adverse impact through the incorporation of the mitigation measures. As such, the

authorized Level B harassment takes of gray whales and ice seals and Level A harassment takes of ice seals are not expected to exacerbate or compound upon the ongoing UMEs.

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 or serious injury is anticipated or authorized;
 - The relatively small number of Level A harassment exposures, for seals only, are anticipated to result only in slight PTS within the lower frequencies associated with pile driving;
 - The intensity of anticipated takes by Level B harassment is minimized through implementation of the mitigation measures described above. While some instances of TTS could occur, the majority of Level B harassment takes will likely be in the form of avoidance of the project area, temporary cessation of foraging and vocalizing, or changes in dive behavior;
 - The area impacted by the specified activity is very small relative to the overall habitat ranges of all species;
 - The Level B harassment zones do not overlap with known important areas for bowhead, gray, or beluga whale, including, specifically, any of the BIAs identified in the region (Clarke *et al.*, 2015);
 - Impacts to critical behaviors such as lairing and pupping by ringed seals would be avoided and minimized through implementation of mitigation measures described above; and
 - AGDC would cease pile driving during the Nuiqsut whaling season, therefore minimizing the amount or severity of take of bowhead whale during a time where animals are expected to migrate by in relatively higher density.
- Based on the analysis contained herein of the likely effects of the specified activity on marine mammals and their habitat, and taking into consideration the implementation of the planned monitoring and mitigation measures, NMFS finds that the total marine mammal take from the planned activity will have a negligible impact on all affected marine mammal species or stocks.

Small Numbers

As noted above, only small numbers of incidental take may be authorized under Sections 101(a)(5)(A) and (D) of the MMPA for specified activities other than military readiness activities. The MMPA does not define small numbers

and so, in practice, where estimated numbers are available, NMFS compares the number of individuals taken to the most appropriate estimation of abundance of the relevant species or stock in our determination of whether an authorization is limited to small numbers of marine mammals. When the predicted number of individuals to be taken is fewer than one-third of the species or stock abundance, the take is considered to be of small numbers. Additionally, other qualitative factors may be considered in the analysis, such as the temporal or spatial scale of the activities.

The number of instances of take for each species or stock authorized to be taken as a result of this project is included in Table 16. Our analysis shows that less than one-third of the best available population abundance estimate of each stock could be taken by harassment (in fact, take of individuals is at most less than two percent of the abundance for all affected stocks). The number of animals authorized to be taken for each stock would be considered small relative to the relevant stock's abundances even if each estimated taking occurred to a new individual, which is an unlikely scenario.

For beluga whale, the percentages in Table 16 conservatively assume that all takes of beluga whale will be accrued to each stock; however, we expect that most, if not all, beluga whales taken by this project will be from the Beaufort Sea stock.

For the Alaska stock of bearded seals, a complete stock abundance value is not available. As noted in the 2019 Draft Alaska SAR (Muto *et al.*, 2019), an abundance estimate is currently only available for the portion of bearded seals in the Bering Sea (Conn *et al.*, 2012). The current abundance estimate for the Bering Sea is 301,836 bearded seals. Given the authorized 300 Level B harassment takes and 2 Level A harassment takes for the stock, comparison to the Bering Sea estimate, which is only a portion of the Alaska Stock (which also includes animals in the Chukchi and Beaufort Seas), shows that, at most, less than one percent of the stock is expected to be impacted.

A complete stock abundance value is also not available for the Alaska stock of ringed seals. As noted in the 2019 Draft Alaska SAR (Muto *et al.*, 2019), the abundance estimate available, 171,418 animals, is only a partial estimate of the Bering Sea portion of the population (Conn *et al.*, 2014). As noted in the SAR, this estimate does not include animals in the shore fast ice zone, and the authors did not account for availability

bias. Muto *et al.* (2019) expect that the Bering Sea portion of the population is actually much higher. Given the authorized 1,765 Level B harassment takes and 9 Level A harassment takes for the stock, comparison to the Bering Sea partial estimate, which is only a portion of the Alaska Stock (also includes animals in the Chukchi and Beaufort Seas), shows that, at most, less than two percent of the stock is expected to be impacted.

Based on the analysis contained herein of the planned activity (including the planned mitigation and monitoring measures) and the anticipated take of marine mammals, NMFS finds that small numbers of marine mammals will be taken relative to the population size of the affected species or stocks.

Unmitigable Adverse Impact Analysis and Determination

In order to issue an IHA, NMFS must find that the specified activity will not have an "unmitigable adverse impact" on the subsistence uses of the affected marine mammal species or stocks by Alaskan Natives. NMFS has defined "unmitigable adverse impact" in 50 CFR 216.103 as an impact resulting from the specified activity: (1) That is likely to reduce the availability of the species to a level insufficient for a harvest to meet subsistence needs by: (i) Causing the marine mammals to abandon or avoid hunting areas; (ii) Directly displacing subsistence users; or (iii) Placing physical barriers between the marine mammals and the subsistence hunters; and (2) That cannot be sufficiently mitigated by other measures to increase the availability of marine mammals to allow subsistence needs to be met.

Given the nature of the activity, and the required mitigation measures, serious injury and mortality of marine mammals is not expected to occur. Impacts to marine mammals would mostly include limited, temporary behavioral disturbances of seals, however, some slight PTS in seals within the lower frequencies associated with pile driving is possible. Additionally, a small number of takes of bowhead whales, by Level B harassment only, are predicted to occur in the vicinity of AGDC's activity. As described above, the required mitigation measures, such as implementation of shutdown zones, are expected to reduce the frequency and severity of takes of marine mammals.

Project activities could deter target species from Prudhoe Bay and the area encompassed above the relevant harassment thresholds. However, as noted in the Effects of Specified Activities on Subsistence Uses of

Marine Mammals section, subsistence use of seals is extremely limited in this area, as it is not within the preferred and frequented hunting areas. Bowhead whales typically remain outside of the area between the barrier islands and Prudhoe Bay, minimizing the likelihood of impacts from AGDC's project. The authorized takes are not expected to affect the fitness of any bowhead whales, or cause significant deflection outside of the typical migratory path in areas where subsistence hunts occur. Additionally, during the Nuiqsut whaling season, the final IHA requires AGDC to cease pile driving and project vessels must transit landward of Cross Island, therefore minimizing the potential impact to the Nuiqsut hunt. AGDC will continue to coordinate with local communities and subsistence groups to minimize impacts of the project, as described in the POC, which the IHA requires AGDC to abide by.

Based on the description of the specified activity and the potential impacts described in the Effects of Specified Activities on Subsistence Uses of Marine Mammals section, the measures described to minimize adverse effects on the availability of marine mammals for subsistence purposes, as well as the mitigation measures required to directly reduce impacts to the affected species and stocks, NMFS has determined that there will not be an unmitigable adverse impact on subsistence uses from AGDC's planned activities.

National Environmental Policy Act

To comply with the National Environmental Policy Act of 1969 (NEPA; 42 U.S.C. 4321 *et seq.*) and NOAA Administrative Order (NAO) 216-6A, NMFS must review our proposed action (*i.e.*, the issuance of an IHA) with respect to potential impacts on the human environment. Accordingly, NMFS adopted the FERC's EIS, as our independent evaluation of the document finds that it includes adequate information analyzing the effects on the human environment of issuing the IHA. NMFS is a cooperating agency on the FERC's EIS.

The FERC's EIS was made available for public comment from June 28, 2019 to October 3, 2019. The FERC's Final EIS is available at <https://www.ferc.gov/industries/gas/enviro/eis/2020/03-06-20-FEIS.asp>.

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 whenever we propose to authorize take for endangered or threatened species, in this case with the AKRO.

NMFS authorized take of bowhead whale, bearded seal (*Beringia distinct* population segment) and ringed seal (*Arctic* subspecies), which are listed under the ESA. On January 8, 2021, NMFS published a proposed rule for the Designation of Critical Habitat for the

Beringia DPS of the Bearded Seal (86 FR 1433; January 8, 2021) and a revised proposed rule for the Designation of Critical Habitat for the Arctic Subspecies of the Ringed Seal (86 FR 1452; January 8, 2021). Neither ESA critical habitat rule has been finalized.

The NMFS AKRO issued a Biological Opinion under section 7 of the ESA, on the issuance of an IHA to AGDC under section 101(a)(5)(D) of the MMPA by the NMFS Office of Protected Resources. The Biological Opinion concluded that the action is not likely to jeopardize the continued existence of any of these species.

Authorization

NMFS has issued an IHA to AGDC for the potential harassment of small numbers of six marine mammal species incidental to construction of the AK LNG project in Prudhoe Bay, Alaska, provided the previously mentioned mitigation, monitoring and reporting requirements are followed.

Dated: February 16, 2021.

Donna S. Wieting,

*Director, Office of Protected Resources,
National Marine Fisheries Service.*

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